

REGULAR SESSION

NOVEMBER 23, 2015

The City Council of the City of Athens met in Regular Session on Monday, November 23, 2015, 5:30 p.m. in the Derek D. Daniels Conference Room of the Athens Partnership Center, 201 W. Corsicana St., Athens, Texas with the following members present, to-wit:

Jerry D. Vaught, Mayor  
Monte Montgomery, Mayor Pro-Tem  
Tres Winn, Councilmember  
Joe Whatley, Councilmember

Philip Rodriguez, City Manager  
Bonnie Hambrick, City Secretary

others present: David Hopkins, Buddy Hill, John McQueary, Gordon Mayer, Gary Whittle, Haven Cox, Blake Wilson, Robert Haberle, Dr. Vernon Johnson, Donna Johnson Mackey, Andy Arnold, Thomas Chapman, Milton Mackey, Bryan Barker, Corey Frentress, Lisa Denton, Marion Klutts and other interested citizens;

with the following member absent: Charles Elliott;

constituting a quorum at which time the following proceedings were enacted, to-wit:

The invocation was given by Councilmember Montgomery.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

INVOCATION

The invocation was given by Mayor Pro Tem Montgomery.

PLANNING & DEVELOPMENT REPORTS

A) STATUS REPORT ON CURRENT AND PROPOSED DEVELOPMENT PROJECTS

Gordon Mayer, Interim Director of Development, updated on the following:

- 1) New permit issued for the jewelry store at 209 Crestway
- 2) New homes in the Timber Hills Addition all in various stages of construction
- 3) 1220 S Palestine has parking lot cleanup left
- 4) Anytime Fitness working on correction of a red tag item to prepare for final inspection
- 5) The winery/brewery on the square is framing and installing equipment
- 6) Country Place Living and Elderly Care 209 Wood St, framing on that building

B) STATUS REPORT ON CURRENT AND PROPOSED UTILITIES PROJECTS

Gary Whittle, Interim Operations Manager, updated on the following projects:

- 1) The Clearwell project is continuing on painting phase. Has some issues on the welds, just minor issues that have been corrected.
- 2) The HWY 19 elevated rehab project, bids will be in the paper Wednesday. Bids will be opened at 3:00 PM, on December 10, 2015.
- 3) The Design Build RFP were opened on November 17, 2015. There were two qualified firms, one being UST out of Southlake, and the second being Hal Maris Architect out of Tyler. The committee met, and based on recommendation, Hal Maris Design Build was selected.

- 4) Coleman Park was entered into an agreement to do the geological testing. Cain Park improvements will include brick dugouts and backstops to match the TVCC field. The brick has been donated, and is waiting to be installed.

Mayor Pro Tem Montgomery made mention about the flooding issue on Kaufman Road. He stated that the City of Athens did a fantastic job, and it looks really good. The owner of the property is very pleased.

#### FINANCIAL REPORT

David Hopkins, Director of Finance & Technology, updated Council on the financial status of the City. In the General Fund, we had a good year, \$44,242 over budget. \$32,000 above last year's actual number. Audits accounted for \$81,000. We are not seeing a big increase in sales tax. Revenue overall was \$100,000 over budget. Led mainly by sales tax, franchise fees, and fines. Total revenue and expenditures was \$4,824,016. Property taxes were about 99% collected. Airport fund finished \$32,000 revenue over expenditures, about \$10,000 was matched with Airport Ramp Grant. Hotel/Motel \$100,000 revenue over expenditures \$72,000 in revenue was Holiday Inn catching up on fees. 2004 Bond Projects, we have capitalized all the first time sewer, we were able to match that first time sewer grant with \$237,000 of bond money. Still have \$37,000 in bond money, and have \$1,000,000 in bond money interest. In the Utility Fund, revenue over expenditures was \$239,000, revenue was under by \$177,000. On expenditures we were under by \$416,000. Leaving a positive \$239,000.

#### PUBLIC HEARING CONCERNING CREATION OF SITE PLAN AND REZONING OF LOT 16 BLOCK A, MATTHEWS ADDITION FROM RETAIL TO RETAIL (SPECIFIC USE PROVISION), OWNED BY DAL RIATA, LLC (115 MURCHISON)

Gary Crecelius stated the property is located on the corner of Murchison and East College Street. Directly in front of the entrance of the Athens High School facility. He stated Mr. Tom Roberson owns the property. He stated the item was before the Zoning Commission on 11/17/15 with the Zoning Commission approving to rezone from Retail, to Retail Specific Special Use Provision in order to put an outpatient offices for counseling and also the intent of having part of the building being used for some residential care for some individuals as well. Mr. Crecelius informed the Council that Dr. Johnson and some of his associates are here tonight to fully explain how they are going to occupy the building.

Mayor Vaught asked where the property is located at, and is this property that is for sale, with Mr. Crecelius stating on 115 Murchison.

Vernon Johnson, M.D., introduced himself and that his primary office is located in Sherman, Texas. He informed the Council of his proposed plans for the property located at 115 Murchison. He works closely with Sun Down Ranch, with their help he created a fairly comprehensive business plan, and he hopes to utilize this building for a sober living community. It would be an intensive outpatient program for the treatment of chemical dependency and an intensive outpatient program for geriatric patients. But also to include on the backside of the building a sober living project. Dr. Johnson stated this is not a halfway house, it is an active treatment project for individuals between the ages of 18-24, that have completed intensive treatment at Sun Down Ranch and are now ready for an intensive outpatient program as well as continued sober living. They would like to choose individuals who would want to continue their education at Trinity Valley Community College, as well as individuals that would work in the community under very, very, close supervision and support.

Thomas Chapman introduced himself. He updated Council as well on the project. He stated Clients on the intensive outpatient program will be participating in group experiential cognitive behavioral therapy, it is what they need to do to stay clean and sober. Kids that want to be in the program, that understand they need life skills.

Andy Arnold, Chemical Dependency Counselor, stated that the program was designed for the residential side, and he thinks that the missing link for these guys coming out of drug treatment, is there are no life skills for these individuals. They have no idea how to get a job, or manage a budget. He stated they have gone to great lengths to ensure they are picking out people that want to be helped. He outlined the steps of the interview process for the patients to be accepted into the facility. They go through a large process to get people who really want help. Staff will remain at facility full time, there will be a strict curfew system. Everything the patients do will be structured and scheduled. This will be an opportunity for these guys to get a second chance.

Mayor Vaught asked how many patients would be in the facility with Mr. Arnold stating the facility will house 8-10.

Mayor Vaught asked how the patients are chosen with Mr. Arnold stating these men will be recommended from the preceding residential drug facilities; such as Sun Down Ranch, and other similar facilities. Then the recommended patient will be given an interview process.

Councilmember Montgomery asked if the Retail Specific Use Provision is the appropriate zoning for this property. Mr. Crecelius stated that it is the correct in retail as long as it has the specific use provision attached to it.

Councilmember Montgomery asked if the patients would be staying overnight with Mr. Arnold stating the patients would be living there from one (1) to two (2) years.

Mr. Crecelius stated in the Zoning Ordinance this is classified as a rehabilitation care institute and the zoning ordinance under the use chart the retail specific use provision does allow it.

Mr. Crecelius stated thirteen (13) letters were mailed to surrounding property owners, and during the Zoning Commission meeting there were no responses from the public.

Mayor Vaught asked if the letters were specific regarding the use of the facility. Mr. Crecelius stated the letters had rehabilitation care institute.

Mr. Rodriguez stated the challenge is the residential component and stated he didn't see that portion on the initial application. He stated when he hears doctor's office and rehab institute he is not envisioning people residing there. Mr. Rodriguez asked for further clarification.

Dr. Johnson stated they have tried to be very clear and the initial intent is to provide a sober living home for roughly 8-10 residents under 24-hour supervision. The intensive outpatient program will also serve that particular need which would also include the intensive outpatient program for elderly patients. Dr. Johnson further stated he understands the concern of having a group of young men physically living there for an extended period of time.

Councilmember Whatley asked if men and women both would be residing at the facility with Dr. Johnson stating only men and the age group is 18-24. Dr. Johnson stated the emphasis is close supervision 24 hours a day. He stated it is individuals that are specifically chosen who are given every opportunity to be successful in this particular environment because they have demonstrated that motivation to remain clean and sober.

Councilmember Montgomery stated he was speaking out of place here as far as the whole Council goes we are absolutely behind the intent and would support your plan all the way, however "for me personally the issue is going to be bringing troubled men in that close to the school and then that close to the residents". Councilmember Montgomery further stated the zoning is confusing and he would like to ensure the citizens realize what is going in there.

Dr. Johnson stated when they first looked at the site he was apprehensive himself about the location being immediately across the street from the high school, however he feels that is one of the greater benefits these young men can be wonderful ambassadors and can go into the schools and share their stories about chemical dependency.

Mayor Vaught asked if there was a predetermined length of time the gentlemen would stay.

Dr. Johnson stated they are looking for a 1 to 2 year time period as individuals would pursue their Associate Degree from Trinity Valley Community College.

Councilmember Winn referenced the zoning application stating item D. Proposed property use has clearly states doctor's office with inpatient care. Mr. Crecelius attempted to ask what else is there with Councilmember Winn stating it also says Rehabilitation Care Institute, and if you look at inpatient means we staying verse outpatient meaning we are coming in and leaving. If we put that phrase in there He stated he understands the concern.

Mr. Rodriguez stated when you read the letter and hear doctor's office there is nothing in the letter that indicates to the Citizens that the facility would be used for chemical dependency.

Mr. Rodriguez read the following from the Zoning Ordinance:

In approving a requested SUP, the Planning and Zoning Commission and City Council may consider and or all of the following:

1. The use is harmonious and compatible with surrounding existing uses or proposed uses;
2. The activities requested by the applicant are normally associated with the permitted uses in the base district;

Mr. Rodriguez read the Retail District general purpose and description:

The R, Retail district is established to provide areas for neighborhood, local and regional shopping and service facilities for the retail sales of goods and services.

He stated medical would be a service, however the intent of the Ordinance is retail sales of good and services.

3. The nature of the use is reasonable;
4. Any negative impact on the surrounding area has been mitigated; and/or
5. That any additional conditions specified ensure that the intent of the district purposes are being upheld.

Mr. Rodriguez stated the Council needs to make a sound business case for it to remain consistent as retail goods or services and also that its compatible use with the existing property.

Mr. Rodriguez asked if it is the right property for what the applicant is describing.

Mr. Crecelius stated that he suggested to Mr. Robertson, who is the owner of the property that it be zoned Multi-Family 4 or Multi-Family 5 with a Specific Use Provision and Mr. Robertson did not want to go with that as it was changing the base zoning from Retail to a Single Family and he did not want to change the base zoning and at his request it was presented as Retail with a Specific Use Provision as is allowed in the Zoning Ordinance in the Use Chart for a Rehabilitation Care Institute.

Councilmember Montgomery asked if all the Zoning members were in agreement with the zoning change with Mr. Crecelius stating the members of the Zoning Commission unanimously voted to approve the zoning change.

Councilmember Winn asked if the patients coming would have an intensive background check for criminal activity and Dr. Johnson stated, absolutely a criminal background check is performed.

Mr. Chapman stated when we say sober living or halfway house I get a picture of young men loitering around the facilities, unkempt, calling out to the teens coming out of the high school. These men are not idle, they are going to school and working, and they are drug tested on a weekly basis.

Mayor Vaught asked if the men have a criminal background and Dr. Johnson stated not any felony charges; they may have been referred to Sun Down Ranch because they had a "Minor in Possession" charge or DWI, but they have gone through an intensive treatment program and will have weekly onsite drug testing.

Mayor Vaught stated we want to protect the school students and that this facility is not like Sun Down Ranch. That is a far out facility and is not close to young kids, where this is right across the street.

Dr. Johnson stated they have proposed a fence area for recreation.

Mayor Vaught asked if any other sites were looked at. Dr. Johnson stated that other sites were looked at and some were in neighborhoods

Mayor Vaught stated the program is excellent and highly needed, however it is the location that has been chosen that I have questions on.

At this time, there were a couple of different people making comments at one time.

Mr. Rodriguez asked Mr. Crecelius where in the Zoning Ordinance does it describe a Rehab Care Facility versus Rehab Care Institute. He stated A Rehab Care Facility is described as a halfway house and is not allowed in this zoning. Dr. Johnson stated it is not a halfway house.

Mayor Vaught asked for Councilmember's Winn opinion.

Councilmember Winn stated it was a great idea; however he stated his concern is the school. He asked if a curfew would be in place, and how free are they to go and come. He stated you are in close proximity to a neighborhood. He asked if the patients do not follow the program, are they kicked out? Dr. Johnson stated "absolutely" and there is a process and due diligence. There is an opportunity to return to Sun Down Ranch.

Councilmember Winn asked how many people will monitor the patients. Dr. Johnson stated if they have 10 patients there is 2 full time staff throughout 24/7.

Dr. Johnson stated the structure is there with an active curriculum they are not people sitting around playing video games. He stated they wanted to be model citizens.

Councilmember Montgomery referenced a facility that is off the Tyler Highway and he asked Chief Hill if this facility is similar. Chief Hill stated the facility being described, by Dr. Johnson is much more structured and more curriculum and more hands on.

Mayor Vaught stated he does not agree with the Retail Zoning and does not feel Retail Specific Use Provision is the correct zoning.

Councilmember Winn stated it is not retail, you are not putting a product out there to the public.

Mayor Vaught informed Dr. Johnson that the Council needs more time to research the zoning. He also expressed concern that the public notice was not fully understood.

The public hearing was closed.

CONSIDER FIRST READING OF AN ORDINANCE CREATING SITE PLAN AND REZONING OF LOT 16 BLOCK A, MATTHEWS ADDITION FROM RETAIL TO RETAIL (SPECIFIC USE PROVISION), OWNED BY DAL RIATA, LLC (115 MURCHISON)

After much debate from Council, the first reading was tabled until the next session on December 7, 2015. Council was afraid that the public was not fully aware of the facility that would be moving to this location.

DISCUSS/CONSIDER REPLAT OF TRACTS 30, 31, 32 & 35, R.A. CLARK SURVEY, OWNED BY ATHENS THRIFT STORE INC., (1419 E. TYLER STREET)

Mr. Crecelius explained that this is a reconfiguration of four (4) lots into one (1) lot. A motion was made by Councilmember Whatley, seconded by Councilmember Winn to Approve the replat of tracts 30, 31, 32, and 35, R.A. Clark Survey. The motion carried unanimously.

DISCUSS/CONSIDER REPLAT OF LOTS 9D & 9G, F.M. COKER TRACTS, OWNED BY FLAVIO VELASQUEZ, (615 EDMONDSON)

Mr. Crecelius informed Council that this will replat two (2) lots into three (3) lots. A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve the replat of Lots 9D & 9G, F.M. Coker Tracts. The motion carried unanimously.

DISCUSS/CONSIDER PRELIMINARY PLAT OF ATHENS COMMONS ADDITION, OWNED BY PALESTINE ST. LLC., ELIEZER SCHEINER, AUTHORIZED MEMBER, (650 S.E. LOOP 7)

Mr. Crecelius informed Council that this property is on the corner of the Loop and South HWY 19. This is the preliminary plat of the property on how it would be structured. He stated this is just a preliminary, once the final plat is available Council will be updated.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve the preliminary plat of Athens Commons Addition. The motion carried unanimously

DISCUSS/CONSIDER REPLAT OF LOTS 1, 2, & 3, WINDWARD POINT ADDITION IN THE CITY OF ATHENS EXTRA TERRITORIAL JURISDICTION, OWNED BY GREYSTONE VENTURES, PATRICK MULLIGAN, REPRESENTATIVE (6530 WINDWARD POINT RD.)

Mr. Crecelius explained that this is a reconfiguration of three (3) lots into one (1) lot.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to Approve the replat of Lots 1, 2, & 3 in the Windward Point Addition. The motion carried unanimously.

DISCUSS/CONSIDER ADOPTING AMENDED BY-LAWS FOR ATHENS ECONOMIC DEVELOPMENT CORPORATION

Lisa Denton, Athens Economic Development Corporation's Executive Director, presented the new amended by laws for AEDC which has very minor changes. Instead of putting the Executive Director's name, it was left as "Executive Director". She stated the President or Secretary can sign documents for contracts and approved purchases, it does not have to be both. She stated the Treasurer duties were also updated.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve the amended By-Laws for Athens Economic Development Corporation. The motion carried unanimously.

DISCUSS/CONSIDER THE FOLLOWING ITEMS ASSOCIATED WITH ATHENS ECONOMIC DEVELOPMENT CORPORATION'S OWNED PROPERTY LOCATED AT 1010 W. CORSICANA:

A. CONSTRUCTION CONTRACT AWARD

Ms. Denton, updated Council on the property that AEDC purchased to finish out and sell to HVAC Manufacturing Inc. She stated that the Company had received two (2) different bids and they would like to proceed with the bid from Athens Steel Buildings.

B. FINANCING

Ms. Denton stated AEDC requested a loan for \$205,000 from Athens Bank at a rate of 3.75% and will be charging HVAC a rate of 4.5% over 10 years. This information was provided as an update to the Council.

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to Approve the construction contract award to Athens Steel Building. The motion carried unanimously.

OPPORTUNITY FOR CITIZENS TO EXPRESS ITEMS OF CONCERN RELATING TO THE CITY OF ATHENS.

There was no discussion.

CITY MANAGER'S UPDATE

Mr. Rodriguez updated Council on the following:

- City will be closed Thursday, November 26<sup>th</sup> and Friday November 27, 2015.
- Council will not have a meeting until December 7, 2015.

- December 5, 2015 there will be Holiday on the Square, and starting at 6:30 there will be the Christmas Parade. Still taking parade entries until November 30, 2015.

MAYOR AND COUNCIL UPDATE

Mr. Vaught, updated Council on a dinner with Mr. Rodriguez, Ms. Denton, and a future company, and they were very pleased with Mr. Rodriguez and Ms. Denton.

ADJOURN

The meeting was adjourned.

City Council Regular Session  
November 23, 2015  
Page 8

PASSED AND APPROVED THIS THE 14<sup>th</sup> DAY OF DECEMBER, 2015.

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Jerry D. Vaught, Mayor

ATTEST:

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Bonnie Hambrick, City Secretary