

REGULAR SESSION

MAY 9, 2016

The City Council of the City of Athens met in Regular Session on Monday, May 9, 2016, 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  
Joe Whatley  
Charles Elliott

Philip Rodriguez, City Manager  
Bonnie Hambrick, City Secretary  
Blake Armstrong, City Attorney

others present: Ed McCain, Buddy Hill, Thanasis Kombos, Lawrence Cutrone, John McQueary, Becky Roseberry, Barbara Holly, Larry Warrick, Don Ball, Gene Keenon, Cliff Barrett, Jess Laird, Lisa Denton, John Trent, Steve Grant, Susan Jacobs, Steve Barksdale, Steve Woodruff Kevin and Jeanne Lilly, and other interested citizens;

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

The invocation was given by Monte Montgomery.

DECLARATION OF CONFLICT OF INTEREST

No action was taken.

RECOGNIZE OUTGOING COUNCILMEMBER CHARLES ELLIOTT FOR HIS OUTSTANDING SERVICE AND COMMITMENT WHILE SERVING THE CITIZENS OF ATHENS, TEXAS

Mayor Vaught read aloud a Proclamation recognizing outgoing Councilmember Charles Elliott for his outstanding service and commitment while serving the Citizens of Athens, Texas.

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

Mr. Ed McCain expressed his concern regarding the proposed 72 unit apartment project on Highway 175. Mr. McCain asked Council to consider their vision for Athens and decide if this is the responsible way to grow Athens as they vote. He asked Council to consider their vision for ten (10) to twenty (20) years.

PRESENTATION OF YEAR-END AND MID-YEAR REPORT FROM ATHENS ECONOMIC DEVELOPMENT CORPORATION

Lisa Denton, Executive Director Athens Economic Development Corporation (AEDC), presented a fifteen (15) month status report of AEDC activities.

DISCUSS/CONSIDER REPEALING "RULES OF PROCEDURE" AND ADOPTING "COUNCIL RULES AND PROCEDURES"

Philip Rodriguez, City Manager, stated the item is before the City Council at the request of Councilmember Elliott to address when a Councilmember may request an item to be placed on a future agenda. Mr. Rodriguez stated that the current "Rules of Procedure" are very limited. He stated the new "Council Rules and Procedures" would allow any councilmember to

request the placement of an item on a future agenda and be honored within a reasonable time, but placement may not exceed thirty (30) days.

Mr. Rodriguez stated the Charter supersedes any Rules of Order.

Mr. Rodriguez identified content of the new "Council Rules and Procedures"

Councilmember Montgomery stated he felt that thirty (30) days is a risk for placement of an agenda item. He stated it needs to be a tighter time span and he prefers the previous "Rules of Procedures"

Mr. Rodriguez clarified that the thirty (30) days is intended to be a cap and at most a one (1) month time frame.

Mayor Vaught stated to the public that the "Rules and Procedures" Councilmember Montgomery is referring to, was one (1) page. He stated there is now a seven (7) page Rules of Procedures document. He stated Mr. Rodriguez had devoted much time to create a useful document. Mayor stated the thirty (30) day placement of an item on the agenda is not unrealistic

Councilmember Montgomery stated the one (1) page that was referenced address the agendas and the protocol of how citizens address the Council and the five (5) pages expands into more details. He stated the Citizens need to be heard as quickly as they can.

Blake Armstrong, City Attorney, stated that currently there are no legal concerns with the document. He stated it is within the City Council's discretion to establish their "Rules and Procedures".

After discussion, Mayor Vaught stated the item is tabled until Staff could research the language and make adjustments.

**DISCUSS/CONSIDER FIRST READING OF AN ORDINANCE ADOPTING  
WATER CONSERVATION/DROUGHT CONTINGENCY PLAN**

Lawrence Cutrone, Director of Public Works, explained that Texas Commission on Environmental Quality has declared the City of Athens 2014 Drought Contingency Plan as administratively complete as of May 23, 2014, and the City must now adopt the Drought Contingency Plan.

Bonnie Hambrick, City Secretary read the Ordinance aloud.

A motion was made by Councilmember Whatley, seconded by Councilmember Montgomery to approve the first reading of an Ordinance adopting Water Conservation/Drought Contingency Plan. The motion carried unanimously.

**CONSIDER FINAL READING OF AN ORDINANCE REZONING OF TRACT  
171, ABSTRACT 19, J.B. ATWOOD SURVEY, CITY OF ATHENS,  
HENDERSON COUNTY, TEXAS FROM COMMERCIAL TO RESIDENTIAL  
SF-7 TO ALLOW FOR PLACEMENT OF A MOBILE HOME, OWNED BY  
LARRY WARRICK (2135 EAST SH 31)**

Philip Rodriguez, City Manager, explained the item is to consider final reading of an Ordinance to rezone Tract 171, Abstract 19, J.B. Atwood Survey, City of Athens, Henderson County, Texas from Commercial to Residential SF-7 to allow for placement of a mobile home.

Ms. Hambrick read the Ordinance aloud.

A motion was made by Councilmember Whatley, seconded by Councilman Winn to approve final reading of an Ordinance to rezone Tract 171, Abstract 19, J.B. Atwood Survey, City of Athens, Henderson County, Texas from Commercial to Residential SF-7 to allow for placement of a mobile home

The motion carried by the following vote: Ayes: Mayor Vaught, Councilmember Winn, Whatley, Elliott. Nays: Councilmember Montgomery, Abstained: None

CONSIDER FINAL READING OF AN ORDINANCE CREATING SITE PLAN AND LAND USE OF 10 ACRE TRACT IN B.C. WALTER LEAGUE, ABSTRACT 782, HENDERSON COUNTY, TEXAS FROM PLAN DEVELOPMENT PD-2 TO PLAN DEVELOPMENT PD-2 WITH SITE PLAN AND LAND USE PLAN TO ALLOW FOR A 72 UNIT APARTMENT PROJECT, OWNED BY DON BALL, AGENT (NE QUADRANT OF US 175 AND LOOP 7)

Mr. Rodriguez explained that Staff received updated information from the applicant today. Mr. Rodriguez further explained there are provisions in the Charter that require two (2) readings of the Ordinance. He stated the first reading died due to the lack of a second motion for approval, and since then the applicant has provided additional information.

Mr. Rodriguez stated that discussion occurred as to whether or not this project would be tax exempt, and the City Attorney just received the letter today and he has expressed he is not yet comfortable in making a determination on the validity of the information in the letter.

Mr. Rodriguez stated he wanted to bring to the public's attention that the information the applicant provided helped staff understand, research, and validate the City currently has twice the state average of units per capita supported by housing tax credits and because of that the City must specifically authorize the application for tax credits. That action occurred on by Resolution R-05-15 dated 1/25/16.

Mr. Donald Ball stated he wanted to confirm the changes the City requested during the prior meeting. He explained the following changes:

1. The pitch of roofs will be changed from 6/12 to 8/12 except for porches they will stay 6:12
2. The masonry mix will be changed from 30% brick and 70% Hardi plank to 70% brick and 30% Hardi plank
3. The exterior fence and gates will all be Wrought Iron
4. Athens New Havens LP will provide for its own sewage costs
5. The existing New Havens Apartments will be demolished as fast as legally possible after residents are relocated

Councilmember Montgomery asked why he could not build at the same location, with Mr. Ball stating there is an economic development scoring that is used and they only like this type of development to be in a high profile area of town.

Councilmember Winn stated per the changes the existing apartments would be demolished as fast as legally possible after residents are relocated.

He stated that earlier Mr. Ball indicated that most will move to the new place and some will probably not. Councilmember Winn asked is there a time table they will have to move out; with Mr. Ball stating there is, however it is not real firm due to legal reason. He further stated it is usually, a 90-120 day period of time to move out or relocate.

Mr. Armstrong stated typically if it goes into an eviction process or action it is a Forceable Detainer. He stated it could go 90-120 days. He further stated it could go longer than the 120 days.

Steve Grant applauded the Council for their leadership and spoke in favor of the 72 unit apartment project.

Mr. Grant asked the Council to look at the property plat. He stated there are 49 acres and Council is here to look specifically at the 10 acre tract that will provide the zoning for the apartments. He stated there is 240 ft. of frontage on Highway 175 that will accommodate a 45 ft. road coming into the facility. He stated he spoke with Bill Jackson and he is researching the tax implications as well.

Councilmember Winn stated he wanted a full understanding of the taxing from the City Attorney and from the Appraiser.

Councilmember Winn suggested tabling the items.

Mr. Rodriguez stated the Council should use a Regular Session as all Public Notices submitted described the last Council Meeting and the May 9, 2016 meeting. Mr. Rodriguez suggested to the Council continue with the process and track with the next Regular Session.

Councilmember Elliott stated the Council should understand the tax implications before proceeding.

Mayor Vaught stated it looked like it would be a great development, however after hearing the City of Athens has more than twice the state average per unit per capita supported by housing tax credit and if the City already has twice the amount are we building more housing for low income individuals? He stated the City needs good paying jobs and housing due to the housing shortages. Mayor stated he did not know how the development would affect the property taxes as it could possibly hurt property taxes in the future. He stated he was not sure if this would harm the City by having more low income housing.

Mayor Vaught stated he is unsure he can continue to support the zoning.

Mr. Ball stated the City is not adding more housing it would be relocating the 50 units to better housing.

Mayor Vaught asked if it is the Councils wish to table the item to allow the City Attorney to study tax implications for the City of Athens.

Councilmember Winn stated the item should be tabled until May 19, 2016.

Councilmember Whatley stated the more information the City could obtain the better.

Councilmember Winn stated that Councilmember Montgomery would not be at the May 19<sup>th</sup> meeting.

It was the consensus of the Council to table the final reading of an Ordinance creating site plan and land use of 10 acre Tract in B.C. Walter League, Abstract 782, Henderson County, Texas from Plan Development PD-2 to Plan Development PD-2 with site plan and land use plan to allow for a 72 unit apartment project, owned by Don Ball, agent (NE Quadrant of US 175 and Loop 7) until the June 13, 2016 Regular City Council meeting.

**DISCUSS/CONSIDER APPOINTMENT TO NECHES & TRINITY VALLEYS  
GROUNDWATER CONSERVATION DISTRICT BOARD OF DIRECTORS**

Mr. Rodriguez explained that this position has typically been appointed to the Public Works Director. He stated he recommends the appointment of Lawrence Cutrone.

Mayor Vaught asked Mr. Cutrone to provide periodic utility updates from this board to the City Council.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn to appoint Lawrence Cutrone to Neches & Trinity Valleys Groundwater Conservation District Board of Directors. The motion carried unanimously.

DISCUSS/CONSIDER A RESOLUTION APPROVING AN APPLICATION FOR FUNDING THROUGH THE TEXAS DEPARTMENT OF AGRICULTURE, TEXAS CAPITAL FUND AND ADOPTING CITIZEN COMPLAINT PROCEDURES

Gary Traylor explained the Resolution is to approve an application for funding through the Texas Department of Agriculture, Texas Capital Fund on behalf of FutureMatrix Interventional and AEDC and adopting Citizen Complaint Procedures.

Mr. Traylor stated a Public Hearing was held on April 26, 2016 regarding the potential grant application. He stated the purpose of the grant is to assist with construction of an additional street in the Athens Industrial Park. Mr. Traylor stated the proposed improvements exceeds the amount available under the grant, however Athens Economic Development Corporation has committed to provide \$227,330 to the City of Athens to be used for the public road and drainage improvements.

A motion was made by Councilmember Whatley, seconded by Councilmember Montgomery to approve a Resolution approving an application for funding through the Texas Department of Agriculture, Texas Capital Fund and adopting Citizen Complaint Procedures. The motion carried unanimously.

DISCUSS/CONSIDER APPROVING A RESOLUTION SUPPORTING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S INCENTIVE PACKAGE FOR FUTUREMATRIX INTERVENTIONAL

Lisa Denton, Executive Director of Athens Economic Development Corporation explained that Future Matrix Interventional will construct and equip a new 20,000 square foot facility and double their employee parking area on their property. She stated the Resolution shows the City's support for capital investment and job creation in the amount of \$200,000.

A motion was made by Councilmember Winn, seconded by Councilmember Whatley, to approve a Resolution supporting Athens Economic Development Corporation's incentive package for FutureMatrix Interventional. The motion carried unanimously.

DISCUSS/CONSIDER APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S BUSINESS ASSISTANCE GRANT FOR SOTHEARA LEANG & SVP, LP IN AMOUNT OF \$7,864.50

Ms. Denton stated this is a reimbursable Business Assistance Grant for Sotheara Leang & SVP, LP. She stated the owners propose to block fill the exterior brick on the building, paint the exterior of the facility, replace wooden windows with new aluminum windows, paint and re-letter parking lot signage, add awning to the front of the building and restripe parking lot at store located at 709 W. Corsicana.

A motion was made by Councilmember Montgomery, seconded by Councilmember Whatley to approve Athens Economic Development Corporation's Business Assistance Grant for Sotheara Leang & SVP, LP in amount of \$7,864.50. The motion carried unanimously.

DISCUSS/CONSIDER APPROVING ATHENS ECONOMIC DEVELOPMENT CORPORATION'S BUSINESS ASSISTANCE GRANT FOR TONI & RAYMOND STANFORD, IN AN AMOUNT OF \$7,250

Ms. Denton explained the Business Assistance Grant is for Toni & Raymond Stanford. She stated the owners propose to repair and overlay parking lot at CJ's Resale Shop located at 508 W. Corsicana. A motion was made by Councilmember Elliott, seconded by Councilmember Winn to approve Athens Economic Development Corporation's Business Assistance Grant for Toni & Raymond Stanford, in an amount of \$7,250. The motion carried unanimously.

DISCUSS/CONSIDER APPROVING A RESOLUTION SUPPORTING  
ATHENS ECONOMIC DEVELOPMENT CORPORATION'S INCENTIVE  
PACKAGE FOR FUTUREMATRIX INTERVENTIONAL

A motion was made by Councilmember Whatley, seconded by Councilmember Winn to approve a Resolution supporting Athens Economic Development Corporation's incentive package for FutureMatrix Interventional. The motion carried unanimously.

CITY MANAGER UPDATE

1. Mr. Rodriguez thanked Thanasis Kombos, and Emily McGraw for their efforts in "Celebrating the Texan" event. He stated over 400 individuals attended the event
2. Mr. Rodriguez introduced Barbara Holly as the Interim Director of Planning and Development
3. Reminded City Council of the May 19, 2016 Special Session at the Cain Center which is in lieu of the May 23, 2016 Regular Session
4. Informed Council and the Public that notice was received from TCEQ regarding the Haloactic Acids (HAA5) levels for the City

MAYOR AND COUNCIL UPDATE

1. Mayor Vaught stated "Celebrating the Texan" event was outstanding. He thanked Thanasis Kombos, and Emily McGraw
2. Thanked Councilman Elliott for his service

Mayor Vaught asked for a status update on building inspections, with Mr. Rodriguez stating the City is currently contracting with Bureau Veritas. He stated the company provides building inspections on a contract basis. Mr. Rodriguez stated the City is 100% current on building inspections.

Councilmember Elliott asked how much money was raised from the "Celebrating the Texan" event with Mr. Kombos stating the preliminary numbers show over \$3,000 in ticket sales.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 27<sup>th</sup> DAY OF JUNE, 2016.

---

Jerry D. Vaught, Mayor

ATTEST:

---

Bonnie Hambrick, City Secretary