

SPECIAL SESSION

JANUARY 29, 2016

The City Council of the City of Athens met in Special Session on Friday, January 29, 2016, 11:00 a.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: David Hopkins, Buddy Hill, Gordon Mayer, Gary Whittle, Nasi Kombos, Amy Williams, Mike Burton, Don Herriage, Kevin and Jeanneane Lilly, Berta Winn, Donna Rogers, Bob Morton, Bryan Barker, Jess Laird, Carol Morton, Rich Flowers, Susan Jacobs, Ed McCain, Tyler Hendrickson, Gail Chock, Corey Frentress, 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.

Mayor Vaught stated that he would be moving agenda item #5 Opportunity for Citizens to express items of concern relating to the City of Athens as the next item.

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

Bonnie Hambrick, City Secretary, informed the City Council that (2) two phone calls were received from Citizens who were unable to attend the meeting and asked that their comments be read. Ms. Hambrick stated that Ms. Chock called to say she is in favor of doing the water study, and she hopes the City Council will reconsider.

Ms. Hambrick stated that Mr. Gary McLeod called and stated he is in favor of doing a water study.

Ms. Hambrick read aloud the name of Bob Morton.

Mr. Morton stated that in all his time as a professional and working with different organizations and having to do research on projects it has always been found that you do the necessary research and you will find all of the problems. You call someone in to fix an issue, and as he understands it, is low water pressure. You tell someone to come in and fix the low water pressure that is what they do, they don't find other problems that go beyond that, then you have to call them back again to fix whatever that happens to be and then you're calling them back again to fix whatever the next problem is. Instead of doing a survey and a study to find out what all the problems are at one time. Mr. Morton stated he is asking the Council to reconsider and do the studies, he further stated and you will save money.

Ms. Hambrick read aloud the name of Ed. McCain.

Mr. McCain read his comment to the City Council. He stated “thank you for the opportunity to speak today obviously water is a hot topic; reports on the drought in California and toxic municipal water in Flint, Michigan are plentiful. We are lucky to see that we have an adequate supply of water for our beautiful community, while supply may not be an issue, quality seems to be. We know we must fix and maintain our equipment and processes which may take hundreds of thousands of dollars. As a business owner I am always responsible for the bottom line. I respect conservative decisions when it comes to finances. In this case, I feel the responsible financial decision to conduct a comprehensive study before we begin the fix. I know our City Manager requested this study and I support him and his recommendation. In discussing this issue with a friend of mine he summed it up perfectly in my opinion. He said to me if I am wrong and we don’t need study we are out less than \$20,000 (twenty thousand dollars) if I am right and we don’t do the study our water becomes unhealthy, people get sick and we have a massive problem on our hands. I support allocating funds for a study at a rate of less than \$2.00 (two dollars) per person Citizen in Athens, I hope you agree with me. Again, thank you for the opportunity to speak. I appreciate your time and efforts”.

Ms. Hambrick read aloud the name of Kevin Lilly.

Mr. Lilly thanked the Mayor and Council for the opportunity to speak with you today regarding this very important issue. He stated as a business owner in the community and one that serves quite a few thousands of people a day that water is definitely a huge concern. He stated that almost every transaction they have goes out with some sort of water product, therefore that water is really the basis of every transaction. He stated if water pressure falls below the City is commanded to send out a boil water notice it is devastating to his business. He stated many in this City in previous times have probably not taken it as seriously and continued to serve; saying that their filtering system filters out any problems that is totally incorrect. A boil water notice is very specific by the health department and command it that way that those that serve the public and pass on that type of unhealthy product will definitely be hugely liable and that will further probably put many folks out of business. So in complying it is a very devastating time period for our business when a boil water notice goes out. It’s hard to get enough bottled products in quickly and be able to make it work. Besides that all of our ice equipment uses water so that becomes also another problem. Please consider to keep us safe, we want a long term fix, not necessarily a short term fix. He stated the Council was deep into the details please make a great decision so all of us can comply and serve healthy products to our Citizens that live right here in the community or might be visiting. He stated that it is truly a major concern to the business community. Mr. Lilly stated he appreciates the Council’s consideration.

Ms. Hambrick read aloud the name of Jerry Vaught Sr.

Mr. Vaught stated the area that the City is discussing is a primary concern for him. He stated it lies within an area that he has a great deal of property. He stated he has (92) ninety two acres that is inside the city limits. He stated at the time this property was proposed to be annexed in by the City he was in strong opposition at the time. He stated at that time he did not feel the City had the money to actually provide the service that the City would be obligated to provided. He stated several Citizens protested and it was postponed and approximately (2) two years later then it came back for annexation.

He stated he has (2) residences there and in the main house he is unable to get a shower without staying in the shower for (30) thirty minutes. He stated there is not enough pressure there.

Mr. Vaught further stated there needs to be something done and the study is the right way to go. He stated if the City continues to grow in that direction there will be a lot more people asking for water services from the City of Athens. He stated the study is the right way to go. He stated as to who does it certainly wanted someone who is competent and knows what they are doing. He concluded by asking the council to give the item a real strong consideration as something needs to be done.

DISCUSS/CONSIDER AUTHORIZING KSA ENGINEERS, INC. TO CONDUCT A
MULTI-LEVEL DESIGN PROJECT TO REMEDY LOW PRESSURES IN THE
WATER DISTRIBUTION SYSTEM

Amy Williams, Director of Development, stated to the Council “you want the Citizens of Athens to have safe drinking water, you want the City of Athens to have the ability to treat its wastewater in an effective and compliant manner. You want to move Athens forward and make it a wonderful place for our current and future generations to live. She asked is that right? The Council indicated that was correct”, and Ms. Williams stated “we do to”

Ms. Williams stated the Council was involved in picking the amazing management team that is in place today. She stated Staff’s vision for the water and wastewater infrastructure in our city is to move it from a reactive and unsustainable state to proactive and sustainable state.

Ms. Williams stated she is unclear as to exactly how the City arrived at its existing situation, but the current status of our water distribution system can be described as critical. She stated not only does the city have isolated low water pressure issues that are nearing the TCEQ boil water notices, it has also been discovered that the current elevated storage tanks may not even meet regulations and that could result in the City not only receiving regulatory enforcement but also losing its coveted superior drinking water status. She stated in addition it’s possible the city and city citizens are paying a higher insurance rate due to the fact of the potentially inadequate fire flow suppression capabilities. She stated this is matter of public safety and the situation is no different than a public safety issue with the fire department or the police department.

Ms. Williams stated that societies fail when they turn inward and they try to survive on ways of the past. She stated change and vision are necessary to be sustainable. She further stated in order for the City to implement its vision to become proactive and sustainable, staff would like the Mayor and Council to understand the need to diversify the city’s engineering consultants. She stated the strategy in incorporating new engineering consultants to the city’s team, is to identify those firms which staff is confident in their abilities to produce quality long lasting work. She stated Staff is also committed to utilizing each engineering firm that is brought onto the team in their areas of specialty. She stated this would result in the City having the ability to work with a hand full of qualified engineering consulting firms.

Ms. Williams stated the Mayor and Council are committed to doing what is best for the safety and the future of our City. Is that correct? The council members acknowledged that is their commitment. Ms. Williams stated the city staff is committed as well.

Ms. Williams stated that one of the new team members that she is recommending to specialize in the City’s water and wastewater infrastructure is KSA Engineers.

Ms. Williams asked the council to hold their questions regarding the agreement. She invited Mr. John Ringler of KSA Engineers to speak to the Council regarding his firm.

Mr. Ringler introduced himself and stated that KSA has been in East Texas for (40) forty years with the company’s expertise being in water and wastewater systems and construction. He provided additional background information regarding KSA Engineering Firm. Mr. Ringler stated the Athens water system is complex, and while there are areas that lack sufficient water pressure, others do not and that makes the solution difficult.

Mr. Ringler stated “Your water system can meet your demands, generally, very easily,” Ringler said. “The issue of every water system in the city is can we provide the fire protection that's required by the state?” The water flow needed for firefighting is five to 10 times as great as the flow for normal use.

It's easy to calculate the demands for the system based on meter readings, meter history and information like that," Ringler said. "The issue is, can we get fire flow in there? Can we get fire protection, or do we have to do something different?"

Mr. Ringler stated a lack of sufficient pressure for firefighting can also have an effect on the insurance rates paid by residents

Mr. Ringler stated the City needs to get moving regardless if the hire KSA or go another route someone will need to resolve the situation for you as quickly as they can. He stated the City also needs to know they are not putting a lot of money in a facility that will cause you a lot of issues down the road and you have to come back and make more effort and more money and if that is the situation you need to be able to plan for that.

He stated it was his opinion that the City Council and the City Staff need to know if this is Phase 1 of 3 Phases or 4 Phases so you can plan financially for the situation.

He stated a red flag for him is when looking at the bottom of the stand pipe on Highway 31 it looks nice and tall because it's up on hill but when you see a squatty tank, which is a short tank on top of a hill that is a red flag for Mr. Ringler, because the state requires you to have an elevated storage.

Mr. Ringler stated they could be forward with the design of the pump station the agreement that you have includes a basis for the agreement. We made some assumptions that says if the pump station is this size, you will have a tanks a certain size and this is what it would cost you. He stated KSA provided a construction estimate for that and is available for the City. He stated the agreement is based on doing what we think might be the minimal out there, however if we get into the project and it grows KSA would ask for a supplemental agreement. He stated all this is to help the City get started and moving and going in the direction he thinks the City needs to go in.

Ms. Williams stated "we recognize the swiftness and the urgency that the Council has indicated that they would like to resolve the public safety issue. She stated the Council has agreement for the preliminary design, the final design, the bidding and the construction phases of a multi-level design project. Ms. Williams further stated she is recommending that the Council approve this agreement contingent upon the City Attorney's review and in addition she is recommending as the next level of the design project that the city does an amendment to the agreement and include a comprehensive capital improvement study of the City's entire water system. She stated that enables the City's Staff to move in the direction of their vision to become proactive and sustainable.

Councilmember Whatley asked if the painting on the elevated storage tanks was the problem.

Ms. Williams stated the elevated storage tanks are out of compliance with the coding and that has been confirmed with TCEQ. She stated initial investigation has indicated that the actual elevations of the elevated storage tanks may not be complainant and allow the City to maintain its superior water system.

Councilmember Montgomery asked what the issue is. Are they not high enough? Are they not big enough? What is the issue?

Ms. Williams stated that Mr. Ringler conducted a very high level investigation based on rough Google Earth elevations, and from that study there is a significant indication that the City needs to drastically evaluate the elevation.

Councilmember Montgomery stated, so they are not high enough, but the size is ok, they are not high enough.

Mr. Ringler confirmed they are not high enough and part of the problem is the high area on the loop. He stated the TCEQ rules require you to provide elevated storage 8 feet above your highest service.

Councilmember Elliott stated he consider what on the East side of town to be a dire emergency. He further stated he was not against the study. He stated he voted against that study as it is delaying an emergency repair for 60 to 90 days. He stated he wanted to get the emergency repair done so Mr. Vaught could have some water pressure. He stated at the point he would be more than happy to vote for a comprehensive study.

Councilmember Elliott further stated that another engineering firm will not take KSA's study.

Councilmember Whatley stated an engineering firm would want to do there on study.

Ms. Williams explained that Staff recognized where Councilmember Elliott was coming from and in the new agreement that is proposed the ball would began rolling immediately. Ms. Williams stated the City was in a critical situation.

Councilmember Whatley stated the City is compromising public health, and it's time to get moving.

Councilmember Elliott state the emergency to him is the public's health. He stated the study is not the emergency to him.

Councilmember Whatley stated it needs to be done quickly and without delay. He stated regardless of the engineering firm that will be used; that firm would perform their own study and check the system over to ensure they are not building in obsolescence.

Councilmember Whatley apologized for having to the leave the previous meeting early. He stated he would elected to serve as he has water and sewer experience. He stated his hesitancy with the engineering firms is he has been contacted by a lot of his constituents and that going directly to KSA, some of the engineering firms that are as qualified as KSA feel they have been side stepped. He stated he would like to propose that the City give everyone that has shown interest as an engineer a chance to present that ideals and make an educated decision on which firm we want to use.

He stated part of his job is to voice the opinion of the people he serves. He stated that the people want to ensure it is a level playing field for everyone and every engineering firm can inform us of what they can do, and this will allow us to have all the information to make the best possible decision. He further stated the issue is of the essence.

Ms. Williams stated that Staff did go through that process. She stated there is new staff and new vision and with that we are bringing in new engineering firms. WE have spoken to several different firms and have identified their specialties. Staff is recommending that KSA is the City's water and wastewater engineers.

Councilmember Whatley stated that might be something that we come to an agreement on, but he does think that Staff is showing a big disservice by not allowing other qualified engineers to at least get their chance to give their case to. He stated all that he was asking is to be as transparent as possible and give everyone a chance to speak here and then make a qualified decision. He stated in his opinion this was the fairest way to handle it.

Councilmember Winn stated that he knows where Councilmember Whatley is coming from, but he stated what if we get in here for 72 hours on Monday and listen to all of the firms. Then Ms. Williams comes back and states that Staff's recommendation is KSA, are we going to go with KSA. He stated we have hired these people to bring Council recommendation and in this instance they have.

Councilmember Whatley stated that by hearing the other firms things could be uncovered that one firm may not have found. This is going to be a very ongoing and expensive project, and there are a lot of engineering firms that are just as qualified.

Mayor Vaught stated to Councilmember Whatley that is not his job. He stated that you were not hired by the City of Athens to be calling and talking to all of these companies which is really a basic conflict of interest in my opinion.

Councilmember Whatley stated that it was his job to state the voice and opinion of his constituents. He stated that some of them feel like they have been bypassed unfairly.

The issue was further deliberated.

Councilmember Winn stated that Council should not confuse constituents with contractors.

Mayor Vaught stated that Council has been extremely pleased with the Staff, and Philip's ability to progress us in the short time that he has been here. He has found money that we didn't even know we have, and he has hired a smart lady that has an engineering degree that is quite capable of contacting these companies.

Councilmember Whatley stated that this is the people in the public, they think they have been unfairly passed up. It will not take much longer to go through that process.

Mayor Pro-Tem stated that when he first got on Council, he made sure that it was on record that he wanted everything that came through to be transparent. He didn't care if it was five (5) dollars he wanted it compared with proposals or bids. He stated that he received some of the same phone calls that Councilmember Whatley received from people in the public that pay taxes wanting to know why they were bypassed. However, we have known about this for eight (8) months and it was critical then, if we would have turned around and brought the firms in. As a City Councilman I do not like this idea of being slammed dunked all at once. I have not even seen the contract. Representing everyone, that is how it should have been done, it should be open and not just hand it out. Part of the issue with the study was the time factor, plus the double situation of having one engineering company do the study, then turn around and do the work. It is double jeopardy, he stated to get the study out of the way and get it started. He stated that he agreed with Councilmember Whatley in they should open this up to all firms, however Staff has made the recommendation to proceed with KSA and we are to the point at this time to go ahead and let KSA proceed. There is a note that Councilmember Winn stated there is an idea of splitting this work up, and releasing KSA on the water on the east side of town, and looking at something else on the wall.

Councilmember Elliott stated that he wanted to ask the City Attorney a question. He asked if he would act on this contract without looking at it if he was in his chair. He stated that he has not read the contract and he is being asked to vote on something that he has not read. He stated he was elected to do what was right, and right to him is to read the contract, then he will be more than happy to vote and make a decision.

Mr. Rodriguez stated that it is never in Staff's attention to create a special call meeting where the contract is coming in last minute. This contract is an expansion of the original contract and it is taking Council from the study to the actual design. He stated that in most cases and almost all cases Staff is going to want to vet the engineering firm. He stated that Texas Government Code Professional Services are defined as Accounting, Architecture, Landscape Architecture, Land Surveying, Medicine, Optometry, Real Estate Appraising, Professional Nursing, and since I have been here we have used accountants, engineers, and we have even used Real Estate Appraisers. In some cases you have told me who to use based on their competency. Monday night we approved an architect Eubanks and Harris out of Tyler, because you believed they were going to be adequate and competent enough to provide us a study on the Cain Center. He stated we approved SPI to perform the rehabilitation of the City's storage tanks, and ground storage tanks. He stated the City did not seek RFP's. Council believed SPI would be competent enough to

complete the project. He stated that staff wants to be responsive to Council. He stated staff was hired to make recommendations. He stated that the Council is the representative of the community and it is their job move forward, or shut down. He stated the conflict on Monday was the Council did not want a study, you wanted Staff to act on the issue. It time urgent and time sensitive, issue and we do believe it's a public health and safety issue. We do not have time and we do not have the luxury of letting this be a political issue.

Mr. Rodriguez further stated that he remembers when the Council hired him; it was with the idea that we would grow this City. He stated that is not on the foreseeable horizon until we address the water and sewer issues we have today. He stated we are having a hard serving our existing citizens with our water and sewer. He stated we must have the system and infrastructure in place to serve the people well.

Mr. Rodriguez stated he recalls discussing this during the budget sessions in August. He stated we needed the opportunity to explore it. He stated it was Ms. Williams's first duty to explore the water and sewer issues in the City. He stated he trusts Ms. Williams and feels very confident with her recommendations. He stated our responses as a City has not been sustainable.

Mr. Rodriguez asked the Council to direct Staff on the direction to pursue.

Councilmember Whatley stated he is not disqualifying Mr. Rodriguez's judgment. He stated Council should hear from all engineers and he sees it as fair. He further stated he did not see it has being political.

Councilmember Elliott stated he is a steward of the City of Athens. He asked Mr. Ringler for a dollar amount to repair the issue. Mr. Ringler stated the agreement is based on pre-agreement. He stated he has looked at all the infrastructure in the City and the assumptions we have put together including all state mandated regulations is approximately a cost at \$375,000

Blake Armstrong, City Attorney, stated he did not review this particular contract, however he did review the first draft and he only had (2) legal concerns; one being the waiver of some damages that the City may incur in a future date; and the contract referenced Gregg County opposed to Henderson County. He stated he would review this contract and any subsequent contracts.

Ms. Williams stated this contract did address the (2) concerns, and she further explained the contract was changed from a high level study to performing the work and getting the ball rolling.

Councilmember Montgomery asked with the changes to contract if Staff felt this was a band aid or a permanent fix.

Mr. Ringler stated he spoke with his supervisor and he stated that KSA needed to know what was going on and the City needed to know as well. He stated he would be very thorough. He stated it does not include a full study. Mr. Ringler further explained the contract.

Councilmember Montgomery asked if this contract takes through design into the bid process through Construction Administration.

Councilmember Elliott asked for an estimated completion date and Mr. Ringler stated 60 days and the construction phase would be approximately 180 days.

Councilmember Whatley stated he would not be bidding on the project as it would be a conflict of interest.

A motion was made by Mayor Vaught, seconded by Councilmember Winn authorizing KSA Engineers, Inc. to conduct a multi-level design project to remedy low pressures in the water distribution system contingent upon review by the City Attorney. The motion carried unanimously.

DISCUSS/CONSIDER AUTHORIZING KSA ENGINEERS, INC. TO CONDUCT A
MULTI-LEVEL DESIGN PROJECT TO REMEDY DEFICIENCIES AT THE NORTH
WASTEWATER TREATMENT PLANT

Ms. Williams stated that most of the City Council members took a tour of the Wastewater Treatment Plant. She stated her second day on the job she took a field trip to there as well. She stated the City has a West Wastewater Treatment Plant and a North Wastewater Treatment Plant. She stated she when she got to the plant immediately a unit called the Trickling Filter caught her eye. She stated she could see daylight between the blocks. She stated she immediately knew this was something that had been this way for a long time, and her opinion was a pending TCEQ violation. She stated the City has not been written up for it, however upon her review the City needed to do its due diligence react to this and make it compliant.

She stated this particular agreement is to address that immediate need. She stated this is an additional immediate need. She stated that wastewater is as equally important aspect of the City's infrastructure. She stated the City is moving from becoming reactive and unsustainable to proactive and sustainable. She stated the need is to place the wall on the "Old Trickling Filter" at the North Wastewater Treatment Plant. She stated it a pretty comprehensive project. She stated they will have to build a new concrete wall and will have to have crane equipment on site, and create a new concrete foundation.

Ms. Williams stated it would include the preliminary design, final design, bidding process and construction. She stated it is in dire need as the previous agenda item.

Mr. Ringler stated the agreement today is going straight into the design and construction to replace the wall. He stated that there is no study phase.

Mayor Vaught asked if this would look for a better solution for the City, with Ms. Williams stating no. She stated she would recommend an amendment to this agreement to perform a comprehensive evaluation of the wastewater system. She stated it is tied to growth just as the drinking water. She stated there are units that are outdated. She stated the trickling filter wall has to be repaired. She stated now is the time to evaluate both plants and see the improvements that the City needs to make.

A motion was made by Councilmember Elliott, seconded by Councilmember Winn, authorizing KSA Engineers, Inc. to conduct a multi-level design project to remedy deficiencies at the North Wastewater Treatment Plant. The motion carried unanimously.

CITY MANAGER'S UPDATE

Mr. Rodriguez stated the customers will receive a letter regarding Haloacetic Acids (HAA5) Levels as part of the requirement from TCEQ. He stated the City is taking additional samples to keep up with the Haloacetic Acids (HAA5) readings. He stated it is a yearly average that TCEQ uses.

MAYOR AND COUNCIL UPDATE

There was no update.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED THIS THE 14th DAY OF MARCH, 2016.

Jerry D. Vaught, Mayor

ATTEST:

Bonnie Hambrick, City Secretary