

MINUTES OF MEETING, ATHENS CITY COUNCIL, JANUARY 16, 2007

The Athens City Council met in regular session on Tuesday, January 16, 2007, at 6:00 P.M. with Mayor Proffitt presiding. The invocation was given by Vice Mayor Perkinson; and upon roll call, the following members were present:

Alvey, Buttram, Pelley, Perkinson, Proffitt

The following decisions were made and ordered made a part of the records of the Athens City Council.

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MINUTES

The Minutes of the regularly scheduled meeting held on December 19, 2006, were submitted and approved by unanimous consent.

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COMMUNICATIONS FROM THE MAYOR

RESOLUTION OF COMMENDATION – CAPTAIN ROB DAVIS

Council Member Buttram presented a resolution recognizing Captain Rob Davis of the Athens Police Department as a recent recipient of the Boy Scouts' *Silver Beaver Award*. This award is recognized as the highest honor to be awarded to an adult Boy Scout volunteer on the Council level. The following resolution was presented for consideration:

RESOLUTION NO. 2007-01

“A RESOLUTION OF COMMENDATION TO CAPTAIN ROB DAVIS OF THE ATHENS POLICE DEPARTMENT.”

Upon the reading of Resolution No. 2007-01, motion was made by Council Member Buttram, seconded by Vice Mayor Perkinson, to approve Resolution No. 2007-01. After brief comments, the resolution was unanimously approved by voice vote. Council Member Buttram expressed his personal appreciation by presenting his late father's "Silver Beaver" lapel pen to Captain Davis in honor of his outstanding service.

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PRESENTATION BY ISO INVESTIGATIVE COMMITTEE

Mayor Proffitt announced that City Attorney Trew had advised the ISO investigation is continuing, and a report to Council is expected by the end of January.

MISCELLANEOUS CORRESPONDENCE

Mayor Proffitt acknowledged receipt of numerous letters expressing appreciation for services performed by city staff members.

PETITIONS AND REQUESTS

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. There were none presented at this time.

City Council agreed to consider an item under New Business at this time due to a scheduling conflict with its presenter, Eric Newberry, General Manager of the Athens Utilities Board. The following proposed loan agreement was presented for consideration:

PROPOSED LOAN AGREEMENT BETWEEN AUB AND TVA

The Charter of the City of Athens, specifically Article XXI/Section 7(f), requires the Athens Utilities Board to seek approval by the City Council for short term loans exceeding \$500,000 and one year in term. General Manager Eric Newberry advised that AUB is seeking to borrow \$520,000 from TVA for a term of 48 months at an interest rate not to exceed zero percent per annum. The proposed resolution acknowledges that an agreement, negotiated with Johns Manville as part of the Economic Development incentive program, helped determine the location of a major mat line expansion project within the service area of AUB. The resolution further acknowledges that the loan from TVA will be used to improve the electrical infrastructure at the newly expanded mat line by funding the construction of a new substation for Johns Manville. With the approval of this resolution, AUB becomes authorized to collect monthly payments from Johns Manville to service the principal and interest of the loan for the term of 48 months. The following resolution was presented for consideration:

RESOLUTION NO. 2007-05

“A RESOLUTION APPROVING THE ATHENS UTILITIES BOARD (AUB) ENTERING INTO A LOAN AGREEMENT WITH THE TENNESSEE VALLEY AUTHORITY (TVA).”

The caption of Resolution No. 2007-05 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Council Member Buttram, to approve Resolution No. 2007-05. After discussion, the resolution was approved by the following roll call vote:

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: None

(Note: Moving this item on the agenda resulted in the resolution numbers being out of sequence.)

6:11 P.M.....The Athens City Council recessed and reconvened as the Athens Beer Board

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BEER BOARD

RESTAURANT BEER PERMIT – OPEN DOOR CAFÉ

An application for a Restaurant Beer Permit at the Open Door Café located at 3 Jackson Street was presented for consideration. The application, being properly completed by the business owner Mr. Blair Strong, was executed by the Chief of Police and the Building Inspector, and the \$250 application fee was acknowledged as received by the City of Athens. Mr. Strong was present to confirm his understanding of the beer regulations of the City of Athens. After brief comments, motion was made by Council Member Buttram, seconded by Council Member Pelley, to approve the beer application as submitted by Mr. Strong. Upon roll call, the motion was approved by the following vote.

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: None

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PACKAGE BEER STORE PERMIT – TOBACCO OUTLET

An application for a Package Beer Store Permit at the Tobacco Outlet located at 1802 Decatur Pike (Congress Crossing Shopping Center) was presented for consideration. The application, being properly completed by the business owner, Mr. Ghanshyam Prabhudas Patel, was executed by the Chief of Police and the Building Inspector, and the \$250 application fee was acknowledged as received by the City of Athens. Mr. Patel was present to confirm his understanding of the beer regulations of the City of Athens. After brief comments, motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve the beer application as submitted by Mr. Patel. Upon roll call, the motion was approved by the following vote.

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: None

6:15 P.M.....The Athens Beer Board adjourned and reconvened as the Athens City Council

REPORTS

FINANCE DEPARTMENT REPORT

Mr. Mike Keith presented the Finance Department Report for the month of December 2006. After brief discussion and comments, the report was accepted as presented.

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POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of December 2006. After brief discussion and comments, the report was accepted as presented.

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FIRE DEPARTMENT REPORT

Chief Bob Miller presented the Fire Department Report for the month of December 2006. After brief discussion and comments, the report was accepted as presented.

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COMMUNITY DEVELOPMENT QUARTERLY REPORT

Mr. Harold Hunter, Community Development Director, presented the Building Permit Quarterly/Annual Report for the City of Athens. For the period ending December 31, 2006, he reported the issuance of 122 permits, with valuation costs estimated at \$10,069,406. The annual records reflect 517 permits being issued during 2006, with valuation costs estimated at \$23,130,254. After brief comments, the report was accepted as presented.

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CONSENT AGENDA

Mayor Proffitt advised the following items were discussed during the recent work session and are presented as a part of the Consent Agenda:

- 1.) Approve **Resolution No. 2007-02** to declare the week of January 15-19, 2007, **Athens Flood Week**;
- 2.) Approve **Resolution No. 2007-03** to enter into a grant agreement with the Tennessee Housing Development Agency (THDA) and the Southeast TN Development District for administrative services;
- 3.) Approve **Resolution No. 2007-04** to approve/adopt the "Program Policies and Procedures" in conjunction with the 2006 THDA grant proposal for Housing Rehabilitation;

- 4.) Approve purchase of heavy duty *truck cab and chassis* pursuant to low bid submitted by L & M Motors of Athens in the amount of \$28,043;
- 5.) Approve re-establishment of Board of Adjustments & Appeals consisting of five (5) board members and two (2) alternates, with city residency being required for appointment;
- 6.) Reappoint *Beth Jackson* to serve another three-year term on International Relations Committee, expires January 20, 2010.

On motion by Vice Mayor Perkinson, seconded by Council Member Buttram, the Consent Agenda as stated above was unanimously approved by the following roll call vote:

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
 NAYS: None

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ORDINANCES

ORDINANCE NO. 950 – SECOND READING – PUBLIC HEARING

“AN ORDINANCE TO AMEND ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND THE OFFICIAL ZONING MAP TO ZONE PROPERTY ADJACENT TO THE I-75 INDUSTRIAL PARK TO I-2 (HEAVY INDUSTRIAL DISTRICT) SAID AREA BEING LOCATED WITHIN THE CORPORATE LIMITS OF ATHENS, TENNESSEE.”

Upon the reading of the caption by the recording clerk, Mayor Proffitt opened the Public Hearing on Ordinance No. 950. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. Motion was made by Council Member Buttram, seconded by Council Member Alvey, to approve Ordinance No. 950 on Second and Final Reading, and upon roll call, Ordinance No. 950 was approved by the following vote:

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
 NAYS: None
 ABSENT: None

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ORDINANCE NO. 951 – SECOND READING – PUBLIC HEARING

“AN ORDINANCE TO AMEND ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND THE OFFICIAL ZONING MAP TO ZONE PROPERTY ALONG EASTANALLEE AVENUE FROM I-1 (LIGHT INDUSTRIAL DISTRICT) TO R-3 (HIGH DENSITY RESIDENTIAL DISTRICT) SAID AREA BEING LOCATED WITHIN THE CORPORATE LIMITS OF ATHENS, TENNESSEE.”

Upon the reading of the caption by the recording clerk, Mayor Proffitt opened the Public Hearing on Ordinance No. 951. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. Motion was made by Vice Mayor Perkinson, seconded by Council

Member Pelley, to approve Ordinance No. 951 on Second and Final Reading, and upon roll call, Ordinance No. 951 was approved by the following vote:

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: None
ABSENT: None

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OLD BUSINESS

REQUEST TO RESCIND ORDINANCE NO. 944 (MT. VERD ANNEXATION)

During a recent meeting of the Athens City Council, Council Member Pelley announced his intention to make a motion to rescind Mt. Verd Annexation Ordinance No. 944, which was adopted by the City Council during its regular meeting on October 17, 2006. At the request of Council Member Pelley, a proposed ordinance was drafted and was placed on the December 19th agenda for consideration. There being no action taken on the ordinance during that meeting, Council Member Pelley again requested the proposed ordinance be placed on the January 16th agenda for consideration under Old Business. The following ordinance was presented for consideration:

ORDINANCE NO. 952 – FIRST READING

“AN ORDINANCE TO RESCIND ORDINANCE NO. 944 ANNEXING PROPERTIES ALONG THE MT. VERD CORRIDOR.”

Upon consideration of Ordinance No. 952, motion was made by Council Member Pelley, seconded by Council Member Alvey, to approve Ordinance No. 952 on First Reading. As discussion began, Council Member Pelley expressed his support for the annexation; however, based on several occurrences of the past three to four months, he felt the Plan of Services for the Mt. Verd annexation was inadequate, especially as it relates to fire protection. It was his contention that the Council needs to return to square one by looking at the Plan of Services more definitively. Vice Mayor Perkinson acknowledged comments by MTAS Consultant Gary West that the City of Athens’ current ISO fire rating would not be adversely affected by this annexation. Based on that information, he felt there was no reason to start the process over again. In response to questions by Council Member Buttram, Fire Chief Miller and Police Chief Ziegler confirmed the assessment as it relates to their departments’ abilities to cover the newly-annexed area has not changed, and plans are in place to service the Mt. Verd area (once the legal process has been resolved). Based on staff’s response, Council Member Buttram expressed his support of the Mt. Verd annexation ordinance, which was approved prior to his term on the Athens City Council. Questions continued by Council Member Pelley regarding the department’s ability to put out a fire along the Mt. Verd corridor without the existence of fire hydrants. Chief Miller advised the AFD fire pumpers are capable of hauling approximately 750 gallons of water to a fire scene, and then it would rely on a mutual aid agreement with the McMinn County Rural Fire to assist with additional water requirements. Alluding to the annexation of industrial properties as being the driving force for the Mt. Verd annexation, Council Member Pelley suggested an alternate route whereby the annexation could be extended from the existing industrial park (McMinn County I-75 Industrial Park) and move in the direction of the Mt. Verd industrial properties. He noted that once services are available to the Mt. Verd residents, the annexation could be extended back toward Athens along Highway 305.

After additional comments by members of the council and upon roll call, the ordinance to rescind Ordinance No. 944 was defeated by the following vote:

AYES: Alvey, Pelley
NAYS: Buttram, Perkinson, Proffitt
ABSENT: None

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NEW BUSINESS

RECOMMENDATION FROM ARPC – REZONING REQUEST

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session January 2, 2007, unanimously recommending that parcels 59.00 (410 Ingleside Avenue) and 60.00 (414 Ingleside Avenue) be rezoned from R-2 (Medium Density Residential District) to P-1 (Professional District). After brief comments, the following ordinance was presented for consideration:

ORDINANCE NO. 952 - FIRST READING

“AN ORDINANCE TO AMEND ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND THE OFFICIAL ZONING MAP TO ZONE PROPERTY AT THE CORNER OF ATLANTIC AVENUE AND INGLESIDE AVENUE FROM R-2 (MEDIUM DENSITY RESIDENTIAL DISTRICT) TO P-1 (PROFESSIONAL DISTRICT) SAID AREA BEING LOCATED WITHIN THE CORPORATE LIMITS OF ATHENS, TENNESSEE.”

The caption of the above-described Ordinance was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Council Member Buttram, to approve Ordinance No. 952 on First Reading, and upon roll call, Ordinance No. 952 was approved by the following vote:

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: None
ABSENT: None

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RECOMMENDATION FROM ARPC – PROPOSED ZONING ORDINANCE REVISIONS

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session January 2, 2007, unanimously recommending approval of numerous revisions to the City of Athens Zoning Ordinance No. 914. Mr. Harold Hunter, Community Development Director, advised it is the policy of the Planning Commission to review the City of Athens Zoning Ordinance every three to five years. He noted the majority of the changes are either definitions or wording changes. The following ordinance was presented for consideration:

ORDINANCE NO. 953 - FIRST READING

“AN ORDINANCE TO AMEND ORDINANCE NO. 914 ENTITLED THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE, SO AS TO AMEND VARIOUS SECTIONS OF THE ZONING ORDINANCE.”

The caption of the above-described Ordinance was read by the recording clerk. Motion was made by Council Member Buttram, seconded by Council Member Pelley, to approve Ordinance No. 953 on First Reading, and upon roll call, Ordinance No. 953 was approved by the following vote:

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: None
ABSENT: None

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MANAGER'S REPORT

City Manager Moore presented the Manager's Report. He reviewed progress of current city projects/meetings scheduled during the months of January and February. After additional discussion, the report was accepted as presented.

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MOTION TO POSTPONE LONG RANGE PLANNING MEETING

As the meeting was concluding, motion was made by Council Member Pelley, seconded by Council Member Alvey, to postpone the Long Range Planning Meeting for a period of one month. It was noted that the meeting is currently scheduled for Friday, January 19 (from 6:00 to 10:00 p.m.) and for Saturday, January 20 (from 9:00 a.m. to 4:00 p.m.). Upon discussion, Council Member Pelley felt this postponement would be prudent due to the possibility of personnel changes as a result of the ISO investigative report being presented later this month. Council Member Alvey too expressed her support of the postponement for 30 days emphasizing the significant role of the City Manager in what this Council does and how this Council plans. Vice Mayor Perkinson and Council Member Buttram each expressed support for the continuance of the Planning Sessions this weekend, noting that these meetings emphasize long range planning as it relates to the Council, not staff members. After other discussion and comments, the motion failed by the following roll call vote:

AYES: Alvey, Pelley
NAYS: Buttram, Perkinson, Proffitt
ABSENT: None

ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 7:12 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager