

MINUTES OF MEETING, ATHENS CITY COUNCIL, FEBRUARY 1, 2007

The Athens City Council met in called session on February 1, 2007, at 6:00 P.M. with Mayor Proffitt presiding. After the pledge, the invocation was given by Mayor Proffitt. 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.

The purpose of the meeting, as issued in the "Notice of Called Meeting" dated January 29, 2007, was read and made a part of these minutes:

NOTICE OF CALLED MEETING

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There will be a called meeting of the Athens City Council on Thursday, February 1, 2007, beginning at 6:00 p.m. in the Athens Municipal Building (Burkett Witt Council Chambers) located at 815 North Jackson Street. The purpose of the called meeting is to receive the ISO investigative report and take any action the City Council desires, including adjourning the meeting.

/s/
John M. Proffitt, Mayor

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RELINQUISHMENT OF CHAIR

Mayor Proffitt confirmed he has reviewed the report as submitted by the Fire Insurance Classification Investigative Committee. He further stated he is in agreement with the committee concerning his role and responsibility as outlined in the report and felt it would be appropriate to relinquish the chair to Vice Mayor Perkinson for the remainder of this meeting.

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ACCEPTANCE OF FIRE INSURANCE CLASSIFICATION INVESTIGATIVE REPORT

In assuming the Chair, Vice Mayor Perkinson asked committee member Chris Trew to make comments relative to the committee's findings. Mr. Trew expressed appreciation to fellow committee members Randy Ayres and Richard Newman. He stated this committee was formed to investigate controversies surrounding the downgrading of the City's fire rating by the Insurance Services Office, Inc. from Class 3 to Class 4. As specified in the report, he re-emphasized the charge of the committee was to ascertain certain facts as it relates to this incident:

- 1.) What members of the City Council and what employees of the City and other public agencies in McMinn County knew about the possible reclassification of the fire rating?
- 2.) Why did persons who knew about the reclassification and are identified in the Committee's answer to the first two inquiries not notify the members of City Council of the potential fire rating reclassification?

Mr. Trew further stated that the committee was not asked to make a recommendation; however, he did indicate that the committee is prepared to offer suggestions the City might want to implement to hopefully not find Council or the City Manager in this position in the future. It was stated that the investigative assignment consists of a report to City Council, summary of exhibits/discussions, 52 exhibits, and the transcriptions of sworn testimonies of 12 witnesses including, among others, Mayor Proffitt, Vice Mayor Perkinson, council members Alvey and Pelley, City Manager Moore, Fire Chief Miller, Police Chief Ziegler, Administrative Assistant Kaye Burton, Community Development Director Harold Hunter, and Utilities Board Manager Eric Newberry. After brief remarks by Mr. Newman and Mr. Ayres, Vice Mayor Perkinson thanked the committee for their service and referred any of the committee's suggestions for procedural changes to its February work session.

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CALL FOR RESIGNATION OR DISMISSAL OF CITY MANAGER

Upon opening the floor for discussion by the City Council, **motion was made by Council Member Pelley, seconded by Council Member Alvey, to ask Mitchell Moore to resign his position as City Manager with two months severance pay or if he does not resign, dismiss him with no severance pay.** Upon discussion, it was Council Member Pelley's contention that the facts presented in this report give this Council evidence of a cover up or nondisclosure of documents not only as it relates to the ISO reclassification but also to a revised Mt. Verd study dated July 2006. As discussion continued, Council Member Buttram alluded to Page 16 (last paragraph) stating, "One might argue that there was an intentional cover-up, but the evidence before the Committee does not justify this conclusion when judging the overall conduct of Mr. Moore during the period covering this investigation. When Mr. Moore placed the ISO matter on the annual planning session for discussion, there certainly was no intent to cover up this issue." Feeling the motion on the floor was premature, Council Member Buttram indicated his desire to ask questions of the committee before voting on this motion. In support of the motion, Council Member Alvey quoted excerpts from Page 23 acknowledging the non-release of documents from the City Manager's office as *evasive* and *non-responsive* and further reported a *reluctance by the City Manager's office to divulge information*. Referring to this incident as misconduct and corruption at its worst, Council Member Alvey alluded to the Committee's findings on Page 24, "It is with considerable reluctance and regret the Committee finds that Mr. Moore knowingly failed to provide council members with pertinent documents relating both to the ISO matter and to the Mount Verd Corridor annexation." As discussion continued, Mayor Proffitt quoted comments from Page 14 of the aforementioned report as follows: "To label this pattern is difficult at minimum. If this Committee could detect a motive for Mr. Moore's conduct as it relates to the ISO matters, it would be much easier to label his actions. One might speculate as to motive, but there is no evidence whatsoever that Mr. Moore had anything to gain or lose by the City's decline in its fire rating." Mayor Proffitt felt City Manager Moore has

never intentionally withheld information and acknowledged this incidence as a mistake, not a pattern or repeated failure on his part. At this time, council members questioned committee members at length regarding specific findings within the report. While alluding to his many years on the Council, Vice Mayor Perkinson expressed belief that the information being provided to the City Council by the City Manager has been accurate and complete, and he has failed to see a pattern of behavior which indicated a reluctance to disclose information prior to this incident. Additionally, in recent review of Mr. Moore's annual performance evaluations, Vice Mayor Perkinson found the Council's evaluations of Mr. Moore to reveal a rating improvement each of the last four years.

After a brief recess and continued questioning of the committee members, City Manager Moore acknowledged he did make mistakes by failing to disseminate information to the Council. However, he stated he had not intentionally withheld information. "I thought that I gave you information, and I accept responsibility for that." As discussion was coming to a close and in an effort to encourage passage of this motion, Council Member Pelley indicated his willingness to extend the severance pay for an additional month or so.

At the conclusion of the lengthy discussion, the motion failed by the following roll call vote:

AYES: Alvey, Pelley
NAYS: Buttram, Perkinson, Proffitt

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CALL FOR 12-MONTH PROBATION OF CITY MANAGER

Upon the defeat of the previous motion, **Council Member Buttram moved to place City Manager Moore on a twelve-month probation period, effective February 1, 2007, and to re-evaluate his communication performance with the Council at the end of that period and further that Mr. Moore's salary shall be maintained at the current level until after the probationary period and re-evaluation by the Council. The motion further stipulates some form of quarterly review and/or update during the probationary period by the City Manager to the City Council. The motion was seconded by Mayor Proffitt.**

As the discussion began, Council Member Buttram stated Mr. Moore's previous evaluations indicated nothing damaging until this report came out; therefore, it was his belief that this Council has the responsibility to take action and this is the appropriate action to take at this time. Council members Pelley and Alvey expressed opposition to this motion while other members of the council (Perkinson and Proffitt) voiced support. After continued discussion, the *Call for Question* was duly made by Council Member Pelley, seconded by Council Member Buttram, and unanimously approved by the following roll call vote.

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

The motion on the floor was restated by the recording clerk and upon roll call, was approved by the following vote:

AYES: Buttram, Perkinson, Proffitt
NAYS: Alvey, Pelley

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ADJOURNMENT

There being no further business to come before the meeting and upon motion by Council Member Buttram, seconded by Vice Mayor Perkinson, the meeting adjourned at 8:35 p.m. by unanimous roll call vote.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager