

MINUTES OF MEETING, ATHENS CITY COUNCIL, MARCH 20, 2007

The Athens City Council met in regular session on Tuesday, March 20, 2007, at 6:00 P.M. with Mayor Proffitt presiding. The invocation was given by Council Member Buttram; 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 February 20, 2007, which includes the Recessed Meeting on February 28, were submitted for approval. Council Member Alvey noted an incorrect spelling of the last name for Sheree and David Hutson (from 'Hudson' to 'Hutson'). Upon unanimous consent, the Minutes were approved as amended.

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Vice Mayor Bo Perkinson presented the *Very Important Volunteer Individual Award* for the month of March 2007 to Ray Seaton and Russ Seaton of Seaton Enterprises located at 2101 Old Niota Road. In an effort to assist the City of Athens in its quest to improve its current ISO classification, Seaton Enterprises recently donated a pumper to the Athens Fire Department for training purposes. The 1971 Ward LaFrance Fire Engine Pump will be used as a visual training aid to show firefighters the internal workings of the apparatus. Captain Charlie Dennis of the Athens Fire Department was also recognized for his coordination of this generous donation.

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MISCELLANEOUS CORRESPONDENCE

Mayor Proffitt acknowledged the receipt of a letter of appreciation from Dr. Craig Rigell, Superintendent of the Athens City Schools. In the letter, Dr. Rigell expressed appreciation to those city employees who coordinate and support the City Schools' transportation system.

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PETITIONS AND REQUESTS

CAPITAL OUTLAY FUNDING PROPOSAL – ATHENS CITY SCHOOL BOARD

Mr. Mike Bevins of the Athens City School Board, along with fellow Board Member Prof Powers and Superintendent Craig Rigell, was in attendance to present an official Long Range Plan, which details capital outlay needs through the year 2030. Mr. Bevins and Dr. Rigell advised the School Board has approved implementation of this plan in three phases – Phase 1 estimated at a cost

of \$8.1 million; Phase II at \$2.3 million; Phase III at \$5.85 million. This plan along with possible funding options will be discussed further during a joint meeting between the two governing bodies on Monday, March 26, 2007 at 5:30 p.m.

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REQUEST FOR DOWNTOWN SIDEWALK SALE – DBA

As discussed in recent work session, Mayor Proffitt acknowledged receipt of a letter from Pam Wilson of Pam's Pizazz of 106 North White Street. On behalf of the Downtown Business Association (DBA), Ms. Wilson stated the Association's desire to sponsor a Downtown Athens Community Sidewalk Sale on April 21. In conjunction with this petition, the DBA requested permission to place tables and merchandise on downtown sidewalks from 10:00 a.m. through 2:00 p.m. It was further requested the Downtown Municipal Parking Lot be blocked off for the purpose of centralizing participating dealers, with the DBA planning to charge a fee of \$15 each for this privilege. She confirmed the DBA has liability insurance coverage with the City of Athens listed as an additional insured. Regarding possible street closings, Ms. Wilson indicated none would be requested for this event. Council Member Buttram questioned the DBA's request not to close the downtown streets as he felt it would allow for more freedom of movement. Acknowledging his membership in the Association, Council Member Pelley advised the DBA had made plans for the streets to remain open to accommodate the business needs of the downtown merchants. **After further comments, motion was made by Council Member Buttram, seconded by Vice Mayor Perkinson, to grant permission to the DBA to have their sidewalk sale as requested, with the exclusion of using the downtown municipal parking area, and to further provide for the closing of downtown streets, if requested by the DBA.** As discussion ensued, Council Member Buttram expressed concern in designating the parking lot for something other than its intended purpose. In opposition to the motion, Council Member Pelley stated the downtown parking lot is virtually empty on Saturday afternoons and urged the Council to approve the request, as submitted by the DBA. Council Member Alvey voiced her concern relative to safety issues for pedestrian traffic in the downtown parking lot. **After further comments, the motion was approved by the following roll call vote:**

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

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AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. In response to Rev. James David Decker's recent arrest by the Athens Police Department, his daughter, Dr. Carol Decker of Highway 411 North in Niota, addressed the Council concerning the right to free speech and freedom of religion. Dr. Decker alleged her father was mistreated and his rights violated in conjunction with the arrest on March 11. Acknowledging intentions to continue to proclaim the Gospel of Jesus Christ, Dr. Decker stated her family's desire to be left alone to do God's work and urged the City of Athens to take appropriate action to rectify this matter. Also, speaking in support of Rev. Decker was Rev. Dewey Fezzell, Pastor of Everlasting Life in Englewood. Rev. Fezzell acknowledged he too is a street preacher and spoke against the actions of the Athens Police Department during the recent arrest. He urged the local government to listen to public feedback and

not only read it but do something about it. Ms. June Griffith, Head of the TN Committee for the Bill of Rights, spoke in support of the public's right to assemble and to freedom of speech. She urged the City Council to pass a resolution that no person would ever be arrested for preaching the gospel and to make an instant retrogression to Rev. Decker.

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REPORTS

FINANCE DEPARTMENT REPORT

City Manager Moore presented the Finance Department Report for the month of February 2007. Mr. Moore announced Mr. Brad Harris from Rhea County has been hired as the new Finance Director for the City of Athens, effective April 2, 2007. After other 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 February 2007. At the conclusion of the report, Council Member Alvey questioned Chief Ziegler regarding an article in the current issue of *Tennessee Business Magazine*. The article reported Athens with the most violent crimes per capita of any city in Tennessee. Not knowing how the ranking was compiled, Chief Ziegler acknowledged he could not say that statement is absolutely accurate. After other 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 February 2007. After brief comments about NIMS training, council asked that a more detailed briefing be presented during its April work session. After brief discussion and comments, the report was accepted as presented.

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ORDINANCES

ORDINANCE NO. 954 – 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 MADISON AVENUE OF KEITH MEMORIAL UNITED METHODIST CHURCH FROM R-2 (MEDIUM DENSITY RESIDENTIAL DISTRICT) TO B-3 (CENTRAL BUSINESS 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. 954. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. Prior to consideration of the ordinance, Vice Mayor Perkinson and

Council Member Buttram disclosed their membership with the Keith Church. **After brief comments, motion was made by Council Member Pelley, seconded by Council Member Buttram, to approve Ordinance No. 954 on Second and Final Reading. Upon roll call, Ordinance No. 954 was approved by the following vote:**

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

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NEW BUSINESS

CABLE FRANCHISING RESOLUTIONS

As discussed during recent work session, the following cable franchising resolutions were presented for consideration:

RESOLUTION NO. 2007-08

“A RESOLUTION IN OPPOSITION TO THE COMPETITIVE CABLE AND VIDEO SERVICES ACT WHICH IS CURRENTLY BEING CONSIDERED BY THE TENNESSEE STATE LEGISLATURE AND THE UNITED STATES CONGRESS.”

The caption of Resolution No. 2007-08 was read by the recording clerk. **Motion was made by Vice Mayor Perkinson, seconded by Council Member Buttram, to approve Resolution No. 2007-08.** Upon discussion, Vice Mayor Perkinson stated the passage of this Act would jeopardize some controls at the local level such as protection of our rights-of-way and service coverage for our citizens. In opposition to the passage of the resolution, Council Member Alvey stated the Cable and Video Services Act is about competition and consumer choice and would add jobs within the state. Confirming his willingness to accept other cable companies within the community, Vice Mayor Perkinson stated the passage of a second resolution, which is to be considered this evening, would publicly invite AT&T to enter into local cable franchising negotiations with this governing body. Council Member Pelley acknowledged his opposition to this legislation but felt the passage of this resolution is premature. It was his belief this Council should be unique by addressing specific issues of the proposed legislation to our representatives in Nashville. As discussion continued, Mayor Proffitt felt the passage of this Act would be harmful to the City of Athens as it would result in the loss of control at the local level. He expressed his preference to negotiate at the local level instead of the State telling our city what to do. **After discussion, the resolution was approved by the following roll call vote:**

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

RESOLUTION NO. 2007-09

“A RESOLUTION REQUESTING THAT AT&T (FORMERLY BELLSOUTH) ENTER INTO CABLE FRANCHISE NEGOTIATIONS IN THE CITY OF ATHENS, TENNESSEE.”

The caption of Resolution No. 2007-09 was read by the recording clerk. **Motion was made by Council Member Buttram, seconded by Council Member Pelley, to approve Resolution No. 2007-09.** Upon discussion, Council Member Buttram stated the passage of this resolution shall offer

an opportunity for competition to our citizens on our own terms. **After other comments, the resolution was approved by the following roll call vote:**

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

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FAIR HOUSING MONTH

Mayor Proffitt presented the following resolution recognizing April as “Fair Housing Month” in the City of Athens:

RESOLUTION NO. 2007-10

“A RESOLUTION DESIGNATING FAIR HOUSING MONTH IN THE CITY OF ATHENS.”

The caption of Resolution No. 2007-10 was read by the recording clerk. **Upon consideration, motion was made by Council Member Pelley, seconded by Council Member Alvey, to approve Resolution No. 2007-10.** As discussion ensued, Community Development Director Harold Hunter acknowledged the passage of this resolution makes the City of Athens eligible for federal funds. **After other comments, the resolution was approved by the following roll call vote:**

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

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REVIEW BIDS – ASPHALT REJUVENATING

As discussed during recent work session, Mayor Proffitt presented for Council’s consideration Bid Tabulation No. 1440 dated February 21, 2007, for asphalt rejuvenation (41,500 square yards). Upon review of the bids submitted by Pavement Technology of Westlake, Ohio (\$.64 per sq yd or \$26,560) and Pavement Restorations of Milan, TN (\$.67 per sq yd or \$27,805), city staff recommended the bid be awarded to Pavement Technology, as the low bidder meeting bid specifications. **Upon consideration, motion was made by Council Member Alvey, seconded by Vice Mayor Perkinson, to accept staff’s recommendation as provided above. After brief discussion, the motion was approved by the following roll call vote.**

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

REVIEW PROPOSALS – QUINT FIRE APPARATUS

As discussed during recent work session, Mayor Proffitt presented a memorandum dated March 9, 2007, recommending the purchase of an aerial Quint truck for the Athens Fire Department. Upon review of the proposals submitted, Fire Chief Miller acknowledged in the memorandum that Heritage Fire Equipment has proposed a 2006 E-ONE HP75 Side Stacker with C2 Cab at a cost of \$624,862. Based on the review of the proposals submitted, the purchase of this apparatus was recommended based on the following reasons:

- It does meet the proposal specifications;
- The vehicle offers a short 210 inch wheelbase with a 45 degree turning radius steering system;
- The cab exceeds the ECE R-29 crash standards;
- It comes with all the needed equipment to meet NFPA and ISO standards;
- It is constructed with a Roll Stability Control System to protect from roll over;
- It has a traction control rear differential;
- The complete apparatus is built at the manufacturer's own facility;
- It has the pre-year 2007 emission engine and Aluminum Aerial Ladder;
- Long term service, with service/warranty service located in the Knoxville area;
- The committee has driven this type of vehicle and approves of its handling ability on the streets of Athens;
- E-one has agreed to do extra custom work, if purchased.

Upon consideration, motion was made by Council Member Buttram, seconded by Council Member Pelley, to accept staff's recommendation to purchase the Fire Aerial Truck as submitted in conjunction with Proposal No. 1442/Specifications No. 12-35. After brief discussion, the motion was approved by the following roll call vote:

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

REVIEW PROPOSALS – ATHENS SUPPLY DEMOLITION

City Manager Moore advised that bids were opened on Monday, March 19, but city staff has not had sufficient time to evaluate all bids received. Upon consent of City Council, this item was deferred to the April work session.

PROPOSED DELINQUENT PROPERTY TAX SETTLEMENT – COLLINS & AIKMAN

As discussed during recent work session, the City of Athens desires to enter into a proposed settlement agreement with Collins & Aikman for 2004 and 2005 delinquent property taxes. It was noted that Collins & Aikman filed bankruptcy in July 2005, with property taxes pending for the

years 2004 and 2005. The following resolution authorizes execution of a Settlement Agreement for the base tax amount of \$208,135.43, with no interest or penalties being filed:

RESOLUTION NO. 2007-11

“A RESOLUTION TO ENTER INTO A PROPOSED SETTLEMENT AGREEMENT AS APPROVED THROUGH THE BANKRUPTCY COURT FOR DELINQUENT PROPERTY TAXES FOR 2004 AND 2005 BY COLLINS & AIKMAN.”

The caption of Resolution No. 2007-11 was read by the recording clerk. **Motion was made by Vice Mayor Perkinson, seconded by Council Member Alvey, to approve Resolution No. 2007-11. After discussion, the resolution was approved by the following roll call vote:**

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

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PROPOSED PROCEDURAL RECOMMENDATION – ISO INVESTIGATIVE COMMITTEE

Mayor Proffitt presented a letter dated February 20, 2007, from City Attorney Chris Trew, who served recently as a member of the ISO Investigative Committee. Based on the findings during that investigation, the Committee made the following recommendations: 1.) to change the internal procedure as it relates to incoming mail and its distribution; 2.) to approve a protocol seating arrangement of council members during regular meetings; and 3.) to record official Minutes of all City Council work sessions. After brief comments, this item was deferred to work session with additional clarification from the committee being requested.

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COMMITTEE APPOINTMENTS – VACANCIES ANNOUNCED

Mayor Proffitt announced the following committee vacancies: Health & Education Facilities Board (W.P. Biddle’s term expired 9/21/06); Keep McMinn Beautiful (one to two vacancies to be confirmed by KMB); Adjustments & Appeals (fill two alternate vacancies); and International Relations Committee (fill two vacancies; one to represent the business community and one to represent the County School System). As discussed during recent work session, Mayor Proffitt confirmed there continue to be no applications on file for these committees at this time. After brief comments, consideration of these vacancies was deferred to a future work session.

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COMMITTEE APPOINTMENTS – COUNCIL ADVISORY COMMITTEE

Mayor Proffitt acknowledged the following vacancies on the Council Advisory Committee as of March 21, 2007: Ruth Atkins (Perkinson) – four term limit; Lou Pascarella (Perkinson) – declined reappointment due to his inability to attend evening meetings; Vacancy (Perkinson) – Hal Buttram’s election to City Council; and Pat Adams (Pelley) – four term limit. Upon consideration, Council Member Pelley nominated Pasha Versa, a resident of 1425 Hammerhill Road, to replace Pat Adams and Vice Mayor Perkinson nominated Dr. Shelley Griffith, a resident of 931 Cedar Springs

Road, to replace Ruth Atkins. These appointments will expire on March 21, 2010. **Upon motion by Council Member Buttram, seconded by Council Member Pelley, the appointments of Ms. Versa and Dr. Griffith to the Council Advisory Committee were unanimously approved by the following roll call vote:**

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: 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 March and April. After additional comments, the report was accepted as presented.

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ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 7:45 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager