MINUTES OF MEETING, ATHENS CITY COUNCIL, AUGUST 21, 2007

The Athens City Council met in regular session on Tuesday, August 21, 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.

- 1 -
MINUTES

The Minutes of the regularly scheduled meeting held on July 17, 2007, were submitted and approved by unanimous consent.

- 2 -
COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF SOAP BOX DERBY PROCLAMATIONS

Mayor Proffitt presented two proclamations honoring Alyssa Maddron (Local Stock Division Champion) and Kara Grooms (Local Super Stock Division Champion) for their participation in the 2007 All-American World Championship Soap Box Derby in Akron, Ohio. Both were in attendance to receive the proclamations and express appreciation to their sponsors, the City of Athens, and Recreation Director Austin Fesmire.

- 3 -
MISCELLANEOUS CORRESPONDENCE

Mayor Proffitt acknowledged receipt of a Certificate of Appreciation dated June 21, 2007, from Jean (John) F. Burleson, WSI-OR General Manager. The officers of the Athens Police Department were recognized for their efforts to combat domestic terrorism through the Pre-Event Discovery Program.

- 4 -
PETITIONS AND REQUESTS

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. Ms. Sheree Hutson of 812 Oakland Drive alluded to a council discussion during recent work session, which concerned a recent investigation of the City of Athens by the Tennessee Occupational Safety and Health Association in regard to an employee safety issue. Ms. Hutson felt City Manager Moore failed to disclose the ongoing investigation to council members in a timely
manner, and only then because of a “whistle blower.” In her closing remarks, Ms. Hutson questioned the Council, “What else don’t you know and what would you do if you knew it?”

- 5 -

REPORTS

FINANCE DEPARTMENT REPORT

Mr. Brad Harris presented the Finance Department Report for the month of July 2007. After brief discussion and comments, the report was accepted as presented.

- 6 -

POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of July 2007. After brief discussion and comments, the report was accepted as presented.

- 7 -

FIRE DEPARTMENT REPORT

Chief Bob Miller presented the Fire Department Report for the month of July 2007. After brief discussion and comments, the report was accepted as presented.

- 8 -

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 Medical Insurance Proposal as submitted by Blue Cross Blue Shield for the period September 1, 2007, through August 31, 2008;

2.) Approve Resolution No. 2007-29 to amend the Personnel Rules and Regulations in compliance with state law as it pertains to Military Leave, the Non-Smoker Protection Act, and personnel records of law enforcement officers;

3.) Accept low bid (Bid No. 1452 dated July 20, 2007) as submitted by U.S. Cellular for Pagers ($3.95 per month; 80 pagers; $316 monthly charge);

4.) Approve Resolution No. 2007-30 to authorize the execution of contractual agreements for cleaning services of the Athens Municipal Building (Metro Janitorial Services, Inc. of East Ridge, TN at $1,460 per month) and the Public Works Center (Commercial Building Services of Cleveland, TN at $520 per month);
CONSENT AGENDA (Cont’d)

5.) Approve staff’s recommendation to declare the following as surplus items and authorize public sale or disposal thereof: 6.5 generator (SN 0793442043); obsolete computer equipment as described in a memorandum dated August 7, 2007; and miscellaneous public works equipment as described in a memorandum dated July 24, 2007;

6.) Accept Planning Commission’s recommendation to deny request to abandon right-of-way on Charlotte Street;

7.) Approve Resolution No. 2007-31 to authorize submission of Byrne Justice Assistance Grant (JAG) Program through the U.S. Department of Justice for Fiscal year 2007;

8.) Approve Resolution No. 2007-32 to authorize submission of grant applicant for funding through FEMA’s Homeland Security Staffing For Adequate Fire and Emergency Response (SAFER) Program;

9.) Approve Resolution No. 2007-33 to authorize submission of Community Enhancement Grant Program through the TN Secretary of State Office;

10.) Appoint Chris Liner to fill unexpired term of Robert Tennyson (March 21, 2010) on Council Advisory Committee, as proposed by Council Member Hal Buttram;

11.) Reappoint Troy Barrett to serve three-year term on Health and Education Facilities Board, expiring September 7, 2010;

12.) Appoint Joy Futrell to fill unexpired term (January 20, 2008) on the International Relations Committee, representing Tennessee Wesleyan College;

13.) Accept Ann Davis’ resignation (dated July 25, 2007) as member of the International Relations Committee, representing local culture/arts community;

14.) Appoint Diane Hutsell to fill the unexpired term of Ms. Davis (expired January 20, 2009) on the International Relations Committee, representing local culture/arts community;

15.) Accept proposal as submitted by MouseWorks for video coverage of official council meetings at a cost of $125 per meeting.

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

AYES: Alvey, Buttram, Pelley, Perkinson, Proffitt
NAYS: None
ORDINANCE NO. 961 – 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 REZONE PROPERTY ALONG ROCKY MOUNT ROAD FROM B-4 (HIGHWAY & MAJOR ARTERIAL SERVING BUSINESS DISTRICT) TO I-1 (LIGHT 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. 961. 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 Pelley, to approve Ordinance No. 961 on Second and Final Reading, and upon roll call, Ordinance No. 961 was approved by the following vote:**

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

OLD BUSINESS

PROPOSAL IN RECOGNITION OF TWC’S 150TH ANNIVERSARY CELEBRATION

Upon presenting this item for consideration, Mayor Proffitt acknowledged a violation of the Sunshine Law as it relates to two emails, which were forwarded between council members. The emails in question become a part of these Minutes:

Message forwarded by Kaye Burton on Friday, August 17, 2007 at 10:55 a.m.:

*Vice Mayor Perkinson asked that I forward this message to all council members as a follow-up to your discussion about the TWC scholarship during your work session on Monday, August 13, 2007.

“Follow-up on contribution to TWC discussion: In speaking with the college representative it was made clear that they are most appreciative to the Athens City Council considering a contribution to the 150th Scholarship Fund. The college goal in establishing this fund is to create a significant endowment for student scholarships and have a committee direct those funds as is best defined from year to year based on many criteria. Because of that I feel restricting these funds is inconsistent with the intent of the 150th Scholarship Fund and either we should make the contribution unrestricted or choose another direction for our recognition of this outstanding milestone. We can choose another route at another time to reward our excellent staff of the City of Athens, including furthering their education.”

The following is an email response dated Friday, August 17, 2007 at 11:05 a.m. from Council Member Pelley to all council members:
Dear Council Members
In my conversations with college personnel, the sentiment is whatever the council wants to do. In the statement by council member Perkinson, he implies that we are making a contribution to the 150th Scholarship Fund. I do believe that we need to focus on making a contribution to the college. As I alluded in the discussion on Monday night, I do not want it to be a deal breaker. I want the college to get the money. The donation gets “swallowed” up in the 150th; whereas, by making a separate donation, it stands out. Giving to the Scholarship Fund will not significantly encourage more giving to the Fund. However, by giving as a separate gift will.

As a result of these emails, Mayor Proffitt read excerpts from City Attorney Trew’s letter dated August 21, 2007: “Remedial action needs to occur to allow the continued discussion and eventual decision of a gift to TWC. I suggest that a full and complete disclosure of the emails be made at the next City Council meeting. After the public disclosure of the emails, all City Council members can continue the discussion, deliberation and eventual vote on the subject of a gift to TWC.” Mayor Proffitt advised the emails along with Mr. Trew’s letter are available during or after the meeting for the public’s review. Through the distribution of these emails, both Vice Mayor Perkinson and Council Member Pelley acknowledged it was not their intention to continue the discussion from the previous work session but to provide information. In accordance with the work session discussion, Vice Mayor Perkinson stated it was his role to find out additional information from the college. “I gave it to city staff and asked that information be sent to the council members.” Acknowledging himself to be an employee of TWC and his follow up conversations with college officials, Council Member Pelley stated, “I did not consider it continuing the debate, only sharing information.” Upon full disclosure of the emails along with comments by the distributors of those emails, Mayor Proffitt echoed the City Attorney’s earlier statement that the council members are now free to discuss and/or vote regarding a possible contribution to Tennessee Wesleyan College. After other brief comments, Council Member Pelley moved approval of a donation to TWC. The motion was seconded by Vice Mayor Perkinson and discussion ensued. After comments by council members Pelley and Buttram, Vice Mayor Perkinson affirmed that TWC officials have proposed an alternative for the City to consider and suggested continuation of this discussion at the September work session. In response, Council Member Pelley and Vice Mayor Perkinson agreed to withdraw the motion, and continued discussion was referred to the September work session.

PROPOSED LEASE/RENTAL AGREEMENT – MID EAST TN REGIONAL FAIR

As discussed in recent work session, City Council expressed a desire to amend its current agreement with the Mid East TN Regional Fair to include rental payments to be paid to the City of Athens for the Fair’s use of the Athens Regional Park. The proposed payment schedule provides for the Fair to pay $15,000 on or before September 30, 2007; $8,460 on or before September 30, 2008; $8,460 on or before September 30, 2009; $8,460 on or before September 30, 2009; $8,460 on or before September 30, 2010; and $8,460 on or before September 30, 2011. The agreement further stipulates the continuance of this fee beyond 2011 is reserved for future consideration and negotiation. After brief comments, the following resolution authorizes the adoption of an addendum to the agreement approved by the Athens City Council on June 21, 2005:
RESOLUTION NO. 2007-34
“A RESOLUTION TO APPROVE AN ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF ATHENS, TENNESSEE, AND THE MID EAST TENNESSEE REGIONAL FAIR.”

The caption of Resolution No. 2007-34 was read by the recording clerk. **Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Resolution No. 2007-34.** After discussion, the resolution was approved by the following roll call vote:

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

NEW BUSINESS

PROPOSED AGREEMENT – ATHENS CITY BOARD OF EDUCATION

As discussed during previous work session, the Athens City Council and the Athens City Board of Education have expressed desire to enter into an agreement to pay the debt service for a proposed $13,000,000 loan. In accordance with the recent passage of Ordinance No. 958, this loan is contingent upon its passage through referendum, whereby the citizens of Athens shall have an opportunity to vote for or against a local sales and use tax increase from 2% to 2.5%. In the event of its passage, the proposed agreement sets aside funding for repayment of the debt and acknowledges that all funds generated by the new sales tax increase of one-half of one percent shall go to pay off the debt. The agreement further states, “Once the debt is retired then new funds generated by the sales tax increase will be utilized by the Athens City School Board for capital improvements only.” The following resolution was presented for consideration:

RESOLUTION NO. 2007-35
“A RESOLUTION TO AUTHORIZE THE CITY OF ATHENS AND THE ATHENS CITY BOARD OF EDUCATION TO ENTER INTO AN AGREEMENT FOR FUNDING RENOVATIONS TO THE ATHENS CITY SCHOOLS.”

The caption of Resolution No. 2007-35 was read by the recording clerk. **Motion was made by Council Member Pelley, seconded by Council Member Buttram, to approve Resolution No. 2007-35.** After discussion, the resolution was approved by the following roll call vote:

**AYES:** Alvey, Buttram, Pelley, Perkinson, Proffitt
**NAYS:** None
PROPOSED STRIP PAVING/REJUVENATION LIST

As discussed during recent work session, city staff presented a revised Paving and Rejuvenation List for fiscal year 2007-08. The estimated cost for designated strip paving projects total $350,083.19, with rejuvenation projects being estimated at $43,629.76. Upon consideration, motion was made by Vice Mayor Perkinson, seconded by Council Member Buttram, to approve the Strip Paving/Rejuvenation List dated August 16, 2007. Upon brief discussion, the motion was approved by the following roll call vote:

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

RECOMMENDATION FROM ARPC – ACCEPT BURKETT L. WITT BLVD

The Regional Planning Commission, meeting in regular session on August 6, 2007, unanimously recommended the acceptance of newly constructed Burkett L. Witt Boulevard which will service the new Cracker Barrel Restaurant located along the I-75 southbound ramp at Exit No. 49. This street consists of a right-of-way measuring a width of 50 feet (27 feet of paved street) and continuing in a southerly direction a distance of approximately 390 feet to a cul-de-sac. This street was named in honor of former Council Member Burkett Witt, whose service to the City of Athens expands over three decades (from July 1971 through November 2004) and includes his distinguished service as Mayor from July 1983 through June 1985. The following resolution was presented for consideration:

RESOLUTION NO. 2007-36
“A RESOLUTION ACCEPTING BURKETT L. WITT BOULEVARD INTO THE STREET SYSTEM OF THE CITY OF ATHENS, TENNESSEE.”

The caption of Resolution No. 2007-36 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Council Member Buttram, to approve Resolution No. 2007-36. After discussion, the resolution was approved by the following roll call vote:

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

COMMITTEE APPOINTMENT – COUNCIL ADVISORY VACANCY

Acknowledging Randy Burger’s recent resignation from the Council Advisory Committee, Mayor Proffitt advised he has contacted a perspective member to fill the unexpired term (March 21, 2009) but has not yet received confirmation from that individual. Therefore, consideration of this appointment was deferred to the next meeting.
MANAGER'S REPORT

City Manager Moore presented the Manager's Report. He reviewed progress of current city projects/meetings scheduled during the months of August and September. Mr. Moore reported that the third annual TWC Creek Clean Up project was completed this past weekend with 200 TWC students and Keep McMinn Beautiful volunteers participating. It was noteworthy that the volunteers cleaned up 16 sites along the Oostanaula and North Mouse creeks, collecting 147 bags of garbage, removing nine shopping carts and 22 tires, as well as numerous other items. In total, 2,540 pounds of debris were removed from the creek banks. In an expression of appreciation and a job well done, Council Member Buttram noted great things are going on in this city, and one of those things that enhance this community is keeping it clean. After additional comments, the report was accepted as presented.

ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 6:45 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager