

MINUTES OF MEETING, ATHENS CITY COUNCIL, SEPTEMBER 19, 2006

The Athens City Council met in regular session on Tuesday, September 19, 2006, 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, Myers, 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 August 15, 2006, were submitted and approved by unanimous consent.

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Council Member Pelley presented the *Very Important Volunteer Individual Award* for the month of September 2006 to Mr. Glenn Whiting. Mr. Whiting was recognized for his significant service in support of the City of Athens Soap Box Derby. He was specifically recognized for his construction of a car rack that allowed three derby cars to be safely transported to Akron inside a van. Glenn also donated materials to be used to build permanent storage racks for the derby cars.

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PRESENTATION OF SOAP BOX DERBY PROCLAMATION

Mayor Proffitt presented a proclamation honoring Stock Car Champion Kara Grooms for her representation of Athens in the 2006 All-American World Championship Soap Box Derby in Akron, Ohio.

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ACKNOWLEDGE/APPROVE AMENDED "ORDER OF BUSINESS" FOR THIS MEETING

Mayor Proffitt recommended Council's approval of a change in the "Order of Business" for this meeting only. This change will allow "Old Business," which includes the Public Hearing and proposed adoption of the Mt. Verd annexation Plan of Services, to be considered prior to the second and final reading of the annexation ordinance (No. 944). It was noted that any proposed change in the regular order of business, as declared by the *Athens Municipal Code* Section 1-102, shall be approved by a majority vote of the council members present. After brief discussion, motion was made by Vice Mayor Perkinson, seconded by Council Member Myers, to approve the revised "Order of Business" for the current meeting. Upon roll call, the motion was approved by the following vote:

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

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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. Mr. Lindsay Hathcock, a candidate for state senator, acknowledged his loss in the recent election. Additionally, he expressed appreciation for the opportunity to meet and to become acquainted with so many people during the campaign. There were no other petitions and requests presented at this time.

REPORTS

FINANCE DEPARTMENT REPORT

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

POLICE DEPARTMENT REPORT

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

FIRE DEPARTMENT REPORT

In the absence of Chief Miller, Fire Marshal Jim Benton presented the Fire Department Report for the month of August 2006. After brief discussion and comments, the report was accepted as presented.

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 bid from *Stowers of Knoxville* for purchase of *backhoe* at a total cost of **\$41,519** (\$62,794 less trade in value \$22,000 plus extended warranty \$725);
- 2.) Accept *resignation* of *Ralph Fenton* as a member of the *Board of Zoning Appeals*;
- 3.) Appoint *Ralph Fenton* to fill vacancy on the *Athens Regional Planning Commission*, term expiring *September 21, 2009*;
- 4.) Defer action for additional *six months* (until March 2007) on ARPC's recommendation to declare Jackson Street property (located adjacent to Veterans Park) as surplus, subject to any and all utility easements;
- 5.) Approve *Resolution No. 2006-36* to extend contract with the Potting Shed for downtown flower bed maintenance (Bid No. 1389/Specifications 22-13) through October 31, 2007;
- 6.) Approve *Resolution No. 2006-37* to authorize submission of a grant application through Commercial Equipment Direct Assistance Program as administered by the Federal Homeland Security Department;
- 7.) Approve *Resolution No. 2006-38* acknowledging the City of Athens' support of the Highway 30 Economic Development Coalition.

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

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

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OLD BUSINESS

PUBLIC HEARING - PLAN OF SERVICES (ORD. #944 - MT. VERD ANNEXATION)

Mayor Proffitt presented a copy of the Public Hearing Notice which was published in a local newspaper on August 11, 2006 as well as on September 1, 2006. Upon brief comments, Mayor Proffitt opened the public hearing to receive input relative to the Plan of Services proposed in conjunction with the Mt. Verd annexation (Ordinance No. 944). Mr. Jerry Riggs, who owns a garage and wrecker service on Highway 305, addressed the council regarding the proposed Plan of Services. He questioned the fire department's capability to arrive on the scene of the annexed areas in ample time. He also expressed concern regarding the estimated costs for sewer hookup and monthly availability fees. There being no others in the audience wishing to comment, the Public Hearing was closed.

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PROPOSED PLAN OF SERVICES – MT. VERD ANNEXATION

Mayor Proffitt presented a proposed resolution officially adopting the Plan of Services in conjunction with the Mt. Verd Annexation Ordinance No. 944. The following resolution was presented for consideration:

RESOLUTION NO. 2006-39

“A RESOLUTION ADOPTING A PLAN OF SERVICES FOR THE ANNEXATION OF PROPERTY ALONG MT. VERD ROAD BY THE CITY OF ATHENS, TENNESSEE.”

The caption of Resolution No. 2006-39 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2006-39. Upon discussion, council members Myers and Alvey, Vice Mayor Perkinson and Mayor Proffitt expressed their support of the Plan of Services as presented in this resolution. Each described the projected sewer timelines (from mid 2011 to early 2019) as a worst-case scenario and felt that industrial development along that corridor will shorten these timelines. In opposition to the proposed Plan of Services, Council Member Pelley felt this Council did not do its due diligence in coming up with the best-case scenario and urged Council to come up with a better plan. Mayor Proffitt read segments of an economic development article, which was published in the *Chattanooga Times* on September 14 and was also discussed at some length during the recent Governor's Conference. According to Mayor Proffitt, the article stressed two points -- *control of the property* and *don't spend your hard-earned dollars for water and sewer lines*. The article further expressed the importance of being ready for industrial development by having engineering design and cost estimates in place. After additional remarks and comments by council members, the resolution was adopted by the following roll call vote:

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

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ORDINANCES

Mayor Proffitt stated Ordinance No. 944 was revised after its passage on First Reading (July 18, 2006) and after the Public Hearing (August 15, 2006). It was noted that both the revised ordinance and map, as presented this evening, reflect a change in a property description which was identified on First Reading as containing 1.1 acres. Upon being contacted by the property owner, city staff determined Parcel No. 233.01, as listed on the map, contained 14 acres, with a major portion of that property being located outside of the proposed annexed area. Since it had been determined in previous annexation discussions that any parcel fronting

Highway 305 must be annexed in its entirety, the ordinance and map were revised by city staff to reflect this change. Upon review by City Attorney Trew and based on his recommendation, the following revised ordinance was presented for consideration on First Reading:

ORDINANCE NO. 944 – FIRST READING

“AN ORDINANCE TO ANNEX PROPERTY KNOWN AS THE MOUNT VERD AREA, AND DESCRIBED IN THE BODY OF THIS ORDINANCE, AND TO INCORPORATE THE SAME WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ATHENS, TENNESSEE.”

The caption of the above-described Ordinance was read by the recording clerk. After brief discussion, motion was made by Council Member Myers, seconded by Council Member Alvey, to approve Ordinance No. 944, as amended, on First Reading. Upon roll call, the ordinance was approved by the following vote:

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

(Upon approval of the Minutes during the regular meeting on October 17, Council Member Pelley requested the Minutes dated September 19, 2006, be amended to reflect his comments following the vote on Ordinance No. 944. Therefore, the Minutes were amended to include the following language.) During the initial roll call vote, Council Member Pelley voted AYE. However, following the roll call vote, Council Member Pelley questioned the content of the motion. After clarification by the Mayor that the motion was to approve Ordinance No. 944, as amended, on First Reading, Council Member Pelley asked the recording clerk to change his vote to NAY. It was Council Member Pelley’s contention that a vote should have been taken on the amendment prior to the vote on the ordinance. There being no further action, the meeting continued.

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ORDINANCE NO. 946 – 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 CONGRESS PARKWAY FROM R-2 (MEDIUM DENSITY RESIDENTIAL DISTRICT) TO B-4 (HIGHWAY & MAJOR ARTERIAL SERVING 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. 946. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Ordinance No. 946 on Second and Final Reading, and upon roll call, Ordinance No. 946 was approved by the following vote:

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

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NEW BUSINESS

RECOMMENDATION FROM ARPC – REZONE PARCELS FROM I-1 TO R-2

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on September 9, 2006, unanimously recommending that City Council rezone parcels located on Sterling and Rocky Mount roads from I-1 (Light Industrial District) to R-2 (Medium Density Residential District). These properties are shown on a map prepared by the TECD Local Planning Assistance Office dated September 2006 and are depicted as parcel numbers 2, 3, and 5. The following ordinance was presented for consideration:

ORDINANCE NO. 947 – FIRST READING

“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 STERLING ROAD FROM I-1 (LIGHT INDUSTRIAL DISTRICT) TO R-2 (MEDIUM DENSITY RESIDENTIAL 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 Myers, seconded by Vice Mayor Perkinson, to approve Ordinance No. 947 on First Reading, and upon roll call, Ordinance No. 947 was approved by the following vote:

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

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COMMITTEE APPOINTMENTS – HISTORIC PRESERVATION COMMISSION

In accordance with TCA 13-7-403 and in compliance with City of Athens Ordinance No. 943, the Athens City Council shall create a seven member Historical Preservation Commission, which shall consist of a local patriotic or historical organization, an architect, one representative each from the Athens City Council and the ARPC, and three citizens. The ordinance further stipulates that these members shall be appointed by the Mayor, subject to confirmation by the City Council. As discussed in recent work session, Mayor Proffitt presented a list of nominees to serve staggered terms on the newly created Historic Preservation Commission as follows: Tom Hamilton (Planning Commission Representative and resident of 1707 Crestway Drive) – to serve a one-year term, expiring 10/1/2007; Randy Heafner (citizen and resident of 208 Blount Street) – to serve a one-year term, expiring 10/1/2007; Rex Moses (citizen and resident of 607 Park Street) – to serve a three-year term, expiring 10/1/2009; Fletcher Hudson (citizen and resident of resides @ 2308 Quail Ridge) – to serve a three-year term, expiring 10/1/2009; Patsy Duckworth (local patriotic or historical organization and resident of 502 Anton Street) - to serve a five-year term, expiring 10/1/2011; Russell Thress (architect and resident of 720 East Madison) – to serve a five-year term, expiring 10/1/2011; and Mayor John Proffitt (City Council Representative). After other comments, motion was made by Council Member Myers, seconded by Council Member Alvey, to confirm the Historic Preservation Commission appointments as recommended by Mayor Proffitt. After brief discussion and upon roll call, the motion was approved by the following vote:

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

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COMMITTEE APPOINTMENTS – HEALTH & EDUCATION FACILITIES BOARD

As discussed in recent work session, Mayor Proffitt advised that W. P. Biddle, Dr. John McKenzie, and Frances Williams have served maximum terms on the Health & Education Facilities Board. Additionally, it was noted that Tom Hughes and Art Kimball are eligible for reappointment and have submitted documentation requesting reappointment. All five terms will expire on September 21, 2006. During recent work session, there was some discussion to decrease the number of board members from seven to three; however, upon review by City Attorney Trew and pursuant to TCA 48-101-307, the board shall consist of not less than seven members. After other comments, Council agreed to defer consideration of these committee appointments until its October 9th work session. Regarding the reappointments of Tom Hughes and Art Kimball, motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to reappoint both to serve another three year term, expiring September 21, 2009. Upon roll call, the motion was approved by the following vote:

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

MANAGER'S REPORT

City Manager Moore presented the Manager's Report. He reviewed progress of current city projects/meetings scheduled during the months of September and October. After additional discussion, 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 7:20 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager