

MINUTES OF MEETING, ATHENS CITY COUNCIL, NOVEMBER 21, 2006

The Athens City Council met in regular session on Tuesday, November 21, 2006, at 6:00 P.M. with Mayor Proffitt presiding. The invocation was given by Council Member Alvey, and the swearing in of the newly-elected council members (Buttram, Pelley, and Perkinson) was conducted by City Attorney Chris Trew. Upon the seating of the new council, followed by roll call, the following members were in attendance:

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 October 17, 2006, were submitted and approved by unanimous consent.

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CERTIFICATION OF ELECTION

The following official tabulation of the Athens City Election was presented by Mayor Proffitt and is entered herein as a part of these Minutes:

“We, the undersigned members of the McMinn County Election Commission, do hereby certify that we held an Athens City Election on Tuesday, November 7, 2006, in all of the voting precincts within the City of Athens, according to law, for the purpose of electing the offices shown hereinafter, and that we have canvassed the returns of said election as required by law, and we do hereby certify that the following tabulation is a true, correct, and complete accounting of the results of said election as established by the canvassing of the returns, this 16th day of November 2006.”

McMinn County Commissioners of Election
/s/ Fred H. Frazier, Chairperson
/s/ Cecilia Jack, Secretary
/s/ Paul F. Mullins, Member
/s/ Ray Simmons, Member
/s/ Ray Whitlock, Member

ATHENS CITY COUNCIL – VOTE FOR THREE (3)

Hal Buttram	2254
Dick Pelley	2044
William Bo Perkinson	1979
C. Richard Sharpe	1600
David Wilson	<u>1206</u>
Total Votes Cast	9083

ATHENS CITY SCHOOL BOARD – VOTE FOR THREE (3)

Brian Heatherly	1806
Chris Liner	2216
James R. (Jim) Nelson	2246
Harold Prof Powers	<u>2323</u>
Total Votes Cast	8591

Upon motion by Council Member Pelley, seconded by Council Member Buttram, the Official Tabulation and Certification of the election, as submitted and approved by the McMinn County Commissioners of Election, was unanimously adopted by voice vote.

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REORGANIZATION OF COUNCIL

The method of selecting the mayor is determined by the Charter of the City of Athens (Article V; Sections 1 & 11), whereby the councilmen at the first regular meeting after each biennial election shall elect from one of their number a mayor and vice mayor to serve for a term of two years. To begin the reorganization of the Council, Mayor Proffitt announced that the meeting is open for the election of mayor and vice mayor as well as the appointment of city council representatives to various other boards and committees.

ELECTION OF MAYOR

Motion was made by Vice Mayor Perkinson, seconded by Council Member Buttram, to nominate John Proffitt to serve a two-year term as Mayor. Upon request for other nominations, motion was made by Council Member Alvey, seconded by Council Member Pelley, to nominate Dick Pelley to serve as Mayor. Upon consideration of the nominations in the order received, John Proffitt was selected as Mayor by the following roll call vote:

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

ELECTION OF VICE MAYOR

Upon request for nominations for the office of Vice Mayor, motion was made by Council Member Buttram, seconded by Mayor Proffitt, to nominate Bo Perkinson to serve a two-year term. There being no further nominations, the motion was approved by the following roll call vote:

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

COMMENTS BY COUNCIL MEMBERS

Mayor Proffitt read the *Athenian Oath* as well as an excerpt from an editorial published in the Daily Post Athenian defining the role of a public servant. Additionally, Vice Mayor Perkinson expressed his appreciation to serve and encouraged council members to strive to work together and press forward for the betterment of our city. In response, Council Member Pelley challenged this Council to look on the issues and not who makes those issues. It was his contention that the Council can disagree without being disagreeable. After other comments, the reorganization of the Council continued.

Based on discussions held during recent work session, Mayor Proffitt presented for consideration the following list of council-represented committee appointments.

	<u>Council Representative</u>
1.) Planning Commission/Board of Zoning Appeals	Shannon Alvey
2.) Mayor's designee to Planning Commission	Dick Pelley
3.) Athens Utilities Board	Bo Perkinson
4.) Athens Parks Foundation	Bo Perkinson
5.) McMinn County Economic Development Authority	Hal Buttram
6.) International Relations Committee	Dick Pelley
7.) McMinn County Dept. of Juvenile Services	Shannon Alvey
8.) McMinn County Senior Citizens	Hal Buttram
9.) SE TN Trade & Conference Board	Dick Pelley

After brief comments, motion was made by Council Member Buttram, seconded by Vice Mayor Perkinson, to approve the list of appointments as submitted. There being no discussion, the motion was unanimously approved by the following roll call vote:

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

COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Mayor Proffitt presented the *Very Important Volunteer Individual Award* for the month of November 2006 to Mr. Larry Wallace. Mr. Wallace was recognized for his outstanding support of this community through public service and through his support of law enforcement agencies in Athens and McMinn County. He was further recognized for his work with the McMinn County Regional Humane Society and the City of Athens in coordination of a countywide animal control program.

SPECIAL RECOGNITION – ANN DAVIS’ RETIREMENT FROM MUSEUM

Vice Mayor Perkinson presented a proclamation acknowledging and commending Ann Davis for her outstanding and faithful service as Executive Director of the McMinn County Living Heritage Museum from 1987 until her recent retirement on September 30, 2006.

RECOGNITION OF COUNCIL MEMBER PELLEY

In acknowledging the recent Flag Memorial dedication service along the I-75 corridor (Exit No. 49), motion was made by Council Member Buttram, seconded by Vice Mayor Perkinson, and unanimously approved to recognize Council Member Pelley and members of the American Post No. 68 for their efforts in bringing this project to fruition.

COMMENTS BY CITY MANAGER MOORE – ISO CLASSIFICATION

“I accept full responsibility for not informing the Athens City Council on the city’s ISO rating. One of my duties is to keep the council informed and I failed to do this concerning correspondence from ISO. I have gone over and over in my mind how I failed to inform the council and I do not have an answer. I placed the ISO topic on last January’s council planning session agenda, but we ran out of time before the ISO topic was reached on the agenda. I should have brought the ISO item forward to a future meeting and again, I failed to do so. I have initiated a couple of new procedures to try to make sure this failure does not occur again. A list of items or projects that are outstanding will be kept and the list will be forwarded each month for inclusion in the work session agenda for discussion and possible action. My administrative assistant will copy all items for city council with a file kept in her office of each item so copied. We will initiate a check list for each procedure we do again to try to make sure everything is completed in a correct and timely manner. I want to stress that my mistake and the change in rating should not have any reflection on the Athens Fire Department or its employees and their ability to suppress fires in this community. Athens has an outstanding fire department, their employees will continue to do an outstanding job, and I apologize to them for my mistake.”

RESPONSE BY COUNCIL MEMBERS

Council Member Pelley expressed appreciation for City Manager Moore accepting responsibility for the failure to inform City Council of the ISO reclassification. He encouraged the City Council to set up a special called meeting to investigate what happened. Council Member Alvey stated that she contacted a representative of ISO who faxed to her all correspondence between the City of Athens and the Insurance Services Office. Council Member Alvey acknowledged receipt of 22 pages of information which includes several pieces of correspondence between August 15, 2005 and May 10, 2006. She noted that these letters were either addressed to the Mayor or City Manager, with copies to key personnel of the City and AUB. She presented this correspondence as evidence that someone is not faithfully disclosing

their duties. In response, Mayor Proffitt too apologized for the error. As discussed during recent work session, he alluded to the formation of a study committee to determine the highest level of fire prevention that the citizens of Athens can afford. He stated this action will be considered later in the meeting and deferred additional discussion until such time.

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MISCELLANEOUS CORRESPONDENCE

Mayor Proffitt acknowledged receipt of letters/notes of appreciation for services performed by city staff members.

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PETITIONS AND REQUESTS

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. Ms. Sheree Hutson of 812 Oakland Drive expressed concern about the ISO reclassification, which resulted in higher insurance premiums for local property and business owners, and the findings presented previously by Council Member Alvey. She urged the City Council to conduct an investigation regarding the failure to disclose this information to council members and to the public.

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REPORTS

FINANCE DEPARTMENT REPORT

Mr. Mike Keith presented the Finance Department Report for the month of October 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 October 2006. As discussed during work session, Chief Ziegler updated Council regarding efforts to respond to panhandling complaints along I-75. After discussion, 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 October 2006. After brief discussion and comments, the report was accepted as presented.

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ORDINANCES

ORDINANCE NO. 948 – PUBLIC HEARING

“AN ORDINANCE TO ANNEX PROPERTY ADJACENT TO THE I-75 INDUSTRIAL PARK, AND DESCRIBED IN THE BODY OF THIS ORDINANCE, AND TO INCORPORATE THE SAME WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ATHENS, TENNESSEE.”

Upon the reading of the caption by the recording clerk, Mayor Proffitt opened the Public Hearing on Ordinance No. 948 to annex 24.5 acres (formerly Stiles property) located behind Denso on George R. Price Blvd. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. The adoption of the Plan of Services and the Second Reading of Annexation Ordinance No. 948 will be held during the regular meeting on December 19, 2006.

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NEW BUSINESS

RECOMMENDATION FROM ARPC – OFFICIAL ZONING – MT. VERD PROPERTIES

As discussed during recent work session, Community Development Director Harold Hunter presented Minutes of the Planning Commission, meeting in regular session on November 6, 2006, unanimously recommending that Council officially zone newly annexed Mt. Verd properties to R-1 (Low Density Residential). City Attorney Chris Trew acknowledged a lawsuit pending in Chancery Court by Mt. Verd property owners. It was his recommendation that Council proceed with the zoning of the newly annexed properties; however, he discouraged expending any funds until this legal issue is resolved by the court system. The following ordinance was presented for consideration:

ORDINANCE NO. 949 – 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 ANNEXED ALONG MT VERD ROAD 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 Vice Mayor Perkinson, seconded by Council Member Buttram, to approve Ordinance No. 949 on First Reading, and upon roll call, Ordinance No. 949 was approved by the following vote:

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

RECOMMENDATION FROM ARPC – PLAN OF SERVICES (ORD. NO. 948)

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on November 6, 2006, unanimously recommending Council's acceptance of the Plan of Services for the proposed I-75 Industrial Park annexation. As required by state law, Mayor Proffitt advised that a Public Hearing has been properly advertised and will be held during Council's next meeting on December 19, 2006, followed by the consideration of a proposed resolution adopting a "Plan of Services."

RECOMMENDATION FROM ARPC – OFFICIAL ZONING I-75 INDUSTRIAL PROPERTY

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on November 6, 2006, unanimously recommending that Council officially zone newly annexed I-75 industrial property to I-2 (Heavy Industrial). It was noted that this property is owned by the McMinn County Economic Development Authority and was formerly known as the Stiles property. He advised this ordinance will be presented on first reading during the regular meeting on December 19.

REVIEW BIDS

As discussed during recent work session, the following bids were presented for consideration:

- (1) *One complete sound system* for the Burkett Witt Council Chambers - Acknowledging the receipt of two bids (Sound Revue of Dandridge; EEAV of Knoxville), city staff recommended acceptance of the low bid as submitted by EEAV in the amount of \$14,991.
- (2) *Refuse containers* - Upon review of the bids submitted, city staff recommended acceptance of the low bid as submitted by Bakers Waste Equipment of Greenville, South Carolina. Based upon the unit bid prices, city staff recommended the purchase of refuse containers (14 – four-cylinder; 7 – six-cylinder; and 10 – eight-cylinder) in the amount of \$19,035.
- (3) *One police property storage building* - Upon review of the bids submitted, city staff recommended acceptance of the bid submitted by East Tennessee Construction Services in the amount of \$79,650. In a memorandum dated November 8, 2006, city staff advised that Jim Bob Contracting submitted the low monetary bid but did not include the 10% bid bond as required and specified in the bid package.
- (4) *Mobile radios, repeater, and antennas* - Upon review of the bids submitted, city staff recommended the purchase be split between two vendors as follows: 10 Motorola portable radios @ \$340 each and 18 roof mount antennas @ \$61 each to be purchased from Metro

Communications at a total cost of \$4,498; 18 ICOM mobile radios @ \$310 each and 1 roof mount antenna @ \$5.80 from Central C & E at a total cost of \$5,585.80. In a memo dated November 7, 2006, city staff noted the City is currently using ICOM mobile radios and recommended the purchase of like equipment for consistency of repair and maintenance. Also, city staff recommended Council reject the bids for the repeater due to issues regarding the inclusion of a duplexer. It was noted that city staff will consider issuing a Request For Quote for the purchase of the repeater at a later date.

After brief comments, motion was made by Council Member Pelley, seconded by Council Member Alvey, to accept staff's recommendation and authorize the purchases as provided above. Upon roll call, the motion was approved by the following vote:

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

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PROPOSED CONTRACT EXTENSIONS

As discussed during recent work session, the following contract extensions were presented for consideration:

RESOLUTION NO. 2006-44

“A RESOLUTION AUTHORIZING THE EXTENSION OF A CONTRACT BETWEEN THE CITY OF ATHENS, TENNESSEE, AND EAST TENNESSEE CONSTRUCTION SERVICES FOR FORMING, POURING, AND FINISHING SIDEWALKS, CURBS AND GUTTERS, AND HANDICAP RAMPS PER SPECIFICATION NOS. 07-57 AND 07-58.”

RESOLUTION NO. 2006-45

“A RESOLUTION AUTHORIZING THE EXTENSION OF A CONTRACT BETWEEN THE CITY OF ATHENS, TENNESSEE, AND SHARP'S MOWING OF NIOTA FOR PARK MAINTENANCE/MOWING OF CITY-OWNED PROPERTIES DESIGNATED IN BID SPECIFICATIONS AS SECTIONS I & II.”

RESOLUTION NO. 2006-46

“A RESOLUTION AUTHORIZING THE EXTENSION OF A CONTRACT BETWEEN THE CITY OF ATHENS, TENNESSEE, AND TOTAL LAWN CARE FOR PARK MAINTENANCE/MOWING OF CITY-OWNED PROPERTIES DESIGNATED IN BID SPECIFICATIONS AS SECTION III.”

Upon review of the above resolutions, motion was made by Council Member Pelley, seconded by Council Member Buttram, to approve the passage of Resolution Nos. 2006-44, 2006-45, 2006-46 as provided above. Upon roll call, the motion was approved by the following vote:

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

COMMITTEE APPOINTMENT – HEALTH & EDUCATION FACILITIES BOARD

Mayor Proffitt acknowledged a vacancy to fill the unexpired term (September 7, 2007) of Dale Prescott on the Health & Education Facilities Board. During recent work session, City Council reviewed an application from Troy Barrett of 110 Highland Avenue for possible appointment to this board. After brief discussion, motion was made by Council Member Buttram, seconded by Vice Mayor Perkinson, to appoint Mr. Barrett to fill the unexpired term on the Health & Education Facilities Board. Upon roll call, the appointment was approved by the following vote:

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

COMMITTEE APPOINTMENT – COUNCIL ADVISORY COMMITTEE

As discussed during recent work session, Council Member Buttram, prior to his election to the City Council, served on two committees, Council Advisory Committee (Vice Mayor Perkinson's representative) and the Board of Adjustments & Appeals. These appointments will be considered at a future meeting.

ESTABLISH COMMITTEE/APPOINT MEMBERS – FIRE DEPARTMENT STUDY

During recent work session, City Council discussed ways of elevating the Athens Fire Department's current ISO classification from its current Class Four rating. Since significant costs will be necessary to increase the ISO rating, Council discussed the establishment of a task force to determine the highest level of fire services that the citizens of Athens can afford. A potential list of members was presented for consideration: City Council representative – Council Member Pelley, Fire Chief Bob Miller; City/AUB intern Honna Rogers; AUB's Water Superintendent Jill Davis, local Insurance representative Ross Carroll, Council Advisory representative Randy Burger, and MTAS Fire Consultant Gary West. Additionally, Council Member Pelley suggested adding Todd Baines, a retired captain from the Athens Fire Department. After brief comments, motion was made by Council Member Pelley, seconded by Council Member Buttram, to approve the formation of this committee and to appoint the above individuals to serve on this committee. Upon roll call, the motion was approved by the following vote:

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

MT. VERD ANNEXATION

In compliance with Roberts Rules of Order, Council Member Pelley announced his intention to introduce a motion to rescind Ordinance No. 944 (Mt. Verd annexation ordinance) during the regular meeting on December 19.

MANAGER'S REPORT

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

CALLED MEETING - ISO INVESTIGATION

Based on earlier comments expressed by City Manager Moore and Council Member Alvey regarding the failure to disclose documentation relative to an ISO reclassification, motion was made by Council Member Pelley, seconded by Council Member Alvey, to request the resignation of the City Manager. After lengthy comments from each council member, the following roll call vote was recorded:

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

Immediately following the vote, motion was made by Council Member Pelley, seconded by Council Member Alvey, to conduct a called meeting of the Athens City Council to authorize a thorough investigation of the ISO cover-up. The motion was later amended to remove the word "cover-up" and to substitute the word "oversight" in lieu thereof. Upon roll call, the motion, as amended, was approved by the following vote:

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

The possibility of two dates was discussed – Monday, November 27, at 5:30 p.m. or Tuesday, November 28 (same time). The meeting will be held in the Athens Municipal Building Training Room.

ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 7:55 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager