

MINUTES OF MEETING, ATHENS CITY COUNCIL, MAY 17, 2005

The Athens City Council met in regular session on Tuesday, May 17, 2005, at 6:00 P.M. with Mayor Proffitt presiding. The invocation was given by Council Member Alvey; 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.

- 1 -

MINUTES

The Minutes of the regularly scheduled meeting held on April 19, 2005, were submitted and approved by unanimous consent.

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Mayor Proffitt announced that the *Very Important Volunteer Individual Award* for May 2005 is to be presented to The Animal Clinic for their work in support of the City of Athens Animal Shelter. Since no one was present on behalf of the Animal Clinic, the presentation of the award was postponed until later in the meeting or until another date, if necessary.

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PRESENTATION OF CERTIFICATES – FIRE OFFICER’S ROLE

City Manager Moore presented certificates to city employees for their participation in recent fire officers training. It was noted that the City Manager administered a ten-week training program entitled “Making A Difference – The Fire Officer’s Role.” The following fire personnel were commended and received certificates for their successful completion of this course: Fire Captain Keith Barton, Fire Marshal Jim Benton, Fire Captain Mark Cobble, Fire Captain Charles Dennis, Fire Lieutenant Eric Guffey, Fire Fighter Randy Key, Fire Fighter Mark Lillard, Fire Fighter David McKenzie, Fire Chief Bob Miller, Fire Lieutenant David Newman, Fire Lieutenant Tim Schultz, Fire Engineer Jackie Tate, and Fire Engineer Rick Woody.

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MISCELLANEOUS CORRESPONDENCE

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

**6:10 P.M.....The Athens City Council recessed and reconvened as  
the Athens Beer Board**

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BEER BOARD

GROCERY (FOOD STORES) BEER APPLICATION – WAL-MART SUPER CENTER #663

City Manager Moore presented an application for a Grocery (Food Stores) beer permit at the newly constructed Wal-Mart Super Center #663 located in the vicinity of 1815 Decatur Pike. Mr. Moore noted that the application has been properly completed and executed, the \$250 application fee has been collected, and the investigation by the Chief of Police has revealed no adverse findings. It was noted that construction of the Center is continuing; therefore, the Building Inspector is unable to acknowledge building codes compliance at this time. Due to grand opening ceremonies being planned prior to the next meeting, City Manager Moore recommended the approval of the beer application contingent upon the issuance of the final Certificate of Occupancy by the City of Athens. It was noted that the grand opening ceremonies are being planned for Wednesday, June 15, 2005. Upon questioning, Mr. Tom Walker, the Store Manager, acknowledged that he is familiar with all beer laws in the City, particularly those prohibiting the sale of beer to individuals less than 21 years of age. After brief discussion, motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve the beer application contingent upon compliance with local municipal codes and issuance of a Certificate of Occupancy by the City of Athens. Upon roll call, the motion was approved by the following vote:

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

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GOLF COURSE BEER APPLICATION – WILLOW SPRINGS GOLF COURSE

City Manager Moore presented an application for a Golf Course beer permit at Willow Springs Golf Course located at 1118 Congress Parkway. Mr. Moore stated that the application is properly completed and executed, the investigation by the Chief of Police and the Inspection of the facility by the Building Inspector reveal that all requirements for the issuance of a permit have been met and that the \$250 application fee has been collected. The new owner, Mr. Rick Mordwinow, acknowledged that he is familiar with all beer laws in the City, particularly those prohibiting the sale of beer to individuals under the age of 21. Upon recommendation by the City Manager, motion was made by Council Member Myers, seconded by Council Member Pelley, to approve the beer application as submitted. During discussion, Mayor Proffitt recused himself from the vote due to previous interest in the Willow Springs property. After other comments and upon roll call, the motion was approved by the following vote:

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

**6:14 P.M.....The Athens Beer Board adjourned and reconvened as  
the Athens City Council**

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PETITIONS AND REQUESTS

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. Mr. David Hutson, residing at 812 Oakland Drive, expressed appreciation to the City Manager and Council for presenting a budget with no property tax increase. Mr. Hutson further remarked that property taxes can be harmful taxes to senior citizens and individuals living on a fixed income. At the conclusion of his remarks, he expressed his desire that future growth in Athens will be sufficient to allow for a reduction of the property tax rate, particularly for the senior citizens.

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REPORTS

FINANCE DEPARTMENT REPORT

Mr. Mike Keith presented the Finance Department Report for the month of April 2005. 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 April 2005. After brief discussion and 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 April 2005. After brief discussion and comments, the report was accepted as presented.

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CONSENT AGENDA

Mayor Proffitt advised that the following items were discussed during the recent work session and are presented as a part of the Consent Agenda:

- 1.) Reappoint Jeff Cunningham to serve three-year term on SE TN Trade & Conference Board, expires May 21, 2008;
- 2.) Appoint William Emendorfer to serve three-year term on SE TN Trade & Conference Board, expires May 21, 2008;

- 3.) Reappoint Charles Clark to serve four-year term on Board of Adjustments & Appeals, expires June 3, 2009;
- 4.) Approve **Bid No. 1402** dated April 6, 2005, as submitted by low bidder, CRM, Inc. of Cleveland, for the supply and delivery of ready mixed concrete;
- 5.) Approve **Bid No. 1403** dated April 15, 2005, as submitted by low bidder, Tennessee Decorative Concrete of Dayton, for formed in place sidewalks, curbs and gutters, and handicap ramps;
- 6.) Approve **Resolution No. 2005-15** authorizing the submission of a used oil grant application to the Tennessee Department of Environment and Conservation for funding (\$13,000 maximum availability) through the Division of Solid Waste Management;
- 7.) Approve **Resolution No. 2005-16** authorizing the execution of a Mutual Law Enforcement Assistance Agreement with the City of Knoxville;
- 8.) Approve **Resolution No. 2005-17** to amend the contract with Renfro Construction Company by approving Change Order No. 1 in conjunction with Dennis Street Realignment/Extension Project;
- 9.) Approve **Resolution No. 2005-18** to authorize the Mayor and City Manager to enter into a contract with Progression Electric LLC for traffic signal maintenance;
- 10.) Approve **Resolution No. 2005-19** authorizing the extension of a contract with the Tennessee Department of Transportation for maintenance of state rights-of-way within the City of Athens.

On motion by Vice Mayor Perkinson, seconded by Council Member Myers, the Consent Agenda was approved by the following roll call vote.

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

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NEW BUSINESS

PROPOSED CITY OF ATHENS BUDGET – FISCAL YEAR 2005/06

A proposed ordinance was presented to adopt the City’s budget for fiscal year July 1, 2005 through June 30, 2006, as follows:

<u>Fund</u>	<u>Projected Opening Balance</u>	<u>Revenues</u>	<u>Expenditures</u>
General	\$2,500,000	\$11,483,000	\$11,483,000
Debt Service	1,550,000	970,000	630,000
Sanitation	150,000	770,000	820,000
Drug	70,000	32,000	32,000

City Manager Moore expressed appreciation to Director of Finance Mike Keith and to the City's department heads for their efforts during the budget process, which began in February. He noted this budget ordinance contains no provision for a property tax increase (\$1.29 on each \$100 assessed value of taxable property); however, it does provide for an increase in the minimum residential sanitation fee from \$6.50 to \$7.50 per month. Based on the continued shortfall in the Sanitation Fund, Mr. Moore advised that recommendations/options (to continue the program or to privatize) will be forthcoming during the October Work Session. After other comments, City Manager Moore recommended approval of the following budget ordinance for FY 2005/06:

**ORDINANCE NO. 929 – FIRST READING**

**“AN ORDINANCE TO ADOPT A BUDGET AND SET THE TAX RATE IN THE AMOUNT OF \$1.29 ON EACH ONE HUNDRED DOLLARS ASSESSED VALUE OF TAXABLE PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF ATHENS, TENNESSEE, FOR THE FISCAL YEAR JULY 1, 2005, THROUGH JUNE 30, 2006.”**

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. 929 on First Reading. Upon discussion, Council Member Myers expressed support of this budget ordinance, alluding to a balanced, sound budget, which has been prepared by trained, competent, and professional people (referring to the City Manager, Director of Finance and department heads), who know the needs of our city. Relative to the proposed sanitation fee increase, Council Member Myers noted that sanitation is setup as an enterprise fund, which must operate on its own and is funded by user fees. He expressed remorse in the necessity for the increase but felt it was the right thing to do when considering the sanitation shortfall, which has been projected in the upcoming budget. In support of the budget ordinance, Vice Mayor Perkinson voiced his confidence in city staff in the preparation of this budget, noting an approximate \$200,000 has already been cut from the individual departmental budgets prior to this reading. Relative to past budgets, he offered the following facts: the City of Athens has had two property tax increases in the past 18 years (1987 and 1996); the City of Athens has maintained a stable employment base (123 employees in 2000/01 vs. 120 employees 2005/06); the City of Athens has a local option sales tax of 2%, which is located in the lower ten percentile of cities across the state. Relative to sanitation issues, he expressed the need to take a hard look at the Sanitation Fund during the coming months but felt the one dollar per month proposed sanitation fee increase was an acceptable part of this budget. Council Member Pelley too commended the City Manager and department heads on the preparation of the budget but added that it is the council's responsibility to look at each and every line item and determine if there can be additions or deletions. Relative to sanitation, he acknowledged it is an enterprise fund that is funded by the citizens. Therefore, it was his contention that an increase in the sanitation fee is still a tax on the citizenry and renders the budget unbalanced. He closed his comments by urging Council to consider budget cuts in an effort to fund sanitation without an increase. Council Member Alvey expressed concern about increasing the budget due to a shortfall in the Sanitation Fund. She expressed a desire for the City Manager and department heads to make necessary cuts so this increase would not be necessary. Prior to the roll call vote on Ordinance No. 929, Council Member Pelley presented a written recommendation dated May 8, 2005, which would reduce budget expenditures. In so doing, he moved that the budget ordinance be amended by reducing the General Fund expenditures to reflect specified cuts (with the exception of \$4,000 from Line Item 01-06-03-5320), and further stipulated that these decreased funds totaling in excess of \$100,000 be transferred into the Sanitation Fund. The proposed reductions include

departmental salary line items (specifically targeting the City Manager and all department heads, excluding Public Works), travel, training, Contingency, recreational staff position, contractual obligations, etc. Increases were proposed to salary line items for the city judge and the city attorney (to compensate attorney for attendance at regular council meetings). The Motion to amend the budget was seconded by Council Member Alvey. Upon discussion, Vice Mayor Perkinson requested clarification of certain line items which appeared to contain mathematical miscalculations as well as a proposed reduction of deferred compensation in the parks and recreation department. Also, in review of the proposed amendment, Vice Mayor Perkinson noted that 72% of the budget reductions appear to be salaries, fringe benefits, contingency, and parks/recreation. He spoke against any reduction to the Contingency Fund as well as the city attorney's attendance at council meetings, noting this action was voted down by the Council last year. He further expressed his affirmation for the opportunity of salary increases by the city manager and department heads. He emphasized the \$1 increase in the sanitation rate is not an insignificant matter but continued to express support of this action based on projected deficits in the Sanitation Fund in the coming year. After additional comments by council members and upon roll call, the amendment was defeated by the following vote: **Ayes: Alvey and Pelley; Nays: Myers, Perkinson, and Proffitt.** Consequently, Council Member Pelley moved approval of a second amendment which would allow the City Manager and department heads to review the budget as presented and to recommend a one percent (1%) reduction in expenditures to be transferred to the Sanitation Fund. Motion was seconded by Council Member Alvey. After continued discussion and upon roll call, the second amendment as presented by Council Member Pelley was defeated by the following vote: **Ayes: Alvey and Pelley; Nays: Myers, Perkinson, and Proffitt.** Once again, expressing his opposition to the passage of Budget Ordinance No. 929, Council Member Pelley remarked that the budget is balanced on paper but realistically remains unbalanced due to the \$1 increase in sanitation fees. After other brief comments, the first reading of Ordinance No. 929 was approved by the following roll call vote:

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

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#### RECOMMENDATION FROM ARPC – ZONING REQUEST

City Manager Moore presented Minutes of the Planning Commission, meeting in regular session on April 4, 2005, unanimously recommending that City Council deny a request to rezone property located at 2110 South Congress Parkway from R-2 (Medium Density Residential) to B-4 (Highway and Major Arterial Serving District). The Minutes reflect that the property owner, Mr. Brad Newman of Legions Outdoor Store, presented a rezoning petition in an effort to install a paintball tournament field at this location. However, significant opposition was noted from surrounding property owners due to increased noise, traffic, and lighting requirements within the residential area. Upon consideration, motion was made by Council Member Pelley, seconded by Council Member Myers, to deny the rezoning petition as recommended by the Planning Commission. Upon roll call, the motion was approved by the following vote:

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

RECOMMENDATION FROM ARPC – HISTORIC PRESERVATION COMMISSION

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on April 4, 2005, unanimously recommending that City Council establish a Historic Preservation Commission (HPC). The Minutes reflect the submission of a petition from property owners requesting that the Ingleside/East Madison Avenue area be designated a Historic District, with an HPC to oversee the preservation of dwellings/buildings within this district. The Minutes further reflect a second petition signed by property owners of the Ingleside/East Madison areas opposing regulations set forth through historic preservation guidelines. Based on the recommendation of the Planning Commission, the following resolution was presented for consideration:

**RESOLUTION NO. 2005-20**

**“A RESOLUTION AUTHORIZING THE ATHENS REGIONAL PLANNING COMMISSION TO FORMULATE A LOCAL ORDINANCE CREATING AN HISTORIC PRESERVATION COMMITTEE WITHIN THE CITY OF ATHENS.”**

The caption of Resolution No. 2005-20 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-20. Upon discussion, Council Member Alvey expressed concerns in regard to restrictions placed on property owners, the establishment of the Board, as well as the possibility of the City being drawn into a libelous situation. Other council members noted that the passage of this resolution is only the first step and will allow Council the opportunity to continue to look at some issues as it works through the process. After brief discussion and upon roll call, the Resolution was approved by the following vote:

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

PROPOSED AGREEMENT WITH YMCA – CITY PARK POOL

As discussed during recent work session, the YMCA has submitted a written request to use the City Park pool in conjunction with its summer swim programs. In a letter dated April 21, 2005, Executive Director Shirel Grimmatt advised of the YMCA’s plans to operate programs for 2-1/2 months as follows: fitness swim (11:30 a.m. – 1:00 p.m.); member recreational swim (1:00 – 5:00 p.m.) and swim lessons (5:00 – 6:00 p.m.). Mr. Grimmatt further notes in the letter that the use of the City Park pool would decrease the demand on the facility’s indoor pool. In response to this request, a proposed agreement, which has been reviewed and approved by the City Attorney and the TML Risk Management Pool, was presented for consideration:

**RESOLUTION NO. 2005-21**

**“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE YMCA FOR USE OF THE CITY PARK SWIMMING POOL.”**

The caption of Resolution No. 2005-21 was read by the recording clerk. Motion was made by Vice Mayor Perkinson, seconded by Council Member Pelley, to approve Resolution No. 2005-21, and upon roll call, the Resolution was approved by the following vote:

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

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PROPOSED CONTRACT – TRAIL CONSTRUCTION AT REGIONAL PARK

Mr. Austin Fesmire, Director of Parks and Recreation, presented a memorandum as well as other documentation (Bid Tabulation No. 1407) relative to trail expansion at the Athens Regional Park. In the memorandum, Mr. Fesmire notes the anticipation of three bidders prior to opening on May 16, 2005; however, only one bidder, East Tennessee Construction Services, Inc., submitted documentation in accordance with Bid No. 1407. Further noting that East Tennessee’s base bid of \$166,362 was higher than grant funds available, Mr. Fesmire recommended reducing the trail project by deleting one section of the trail in order to match available funding in the amount of \$110,000 (80% grant funded and 20% locally funded). The following resolution was presented authorizing the execution of a contract with East Tennessee Construction as recommended above :

RESOLUTION NO. 2005-22

**“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACT WITH EAST TENNESSEE CONSTRUCTION SERVICES, INC. TO CONSTRUCT ADDITIONAL WALKING TRAIL AT THE ATHENS REGIONAL PARK.”**

The caption of Resolution No. 2005-22 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-22. After brief comments and upon roll call, the Resolution was approved by the following vote:

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

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MAYOR ANNOUNCES AVAILABILITY OF AUDIO RECORDINGS

Mayor Proffitt announced that audio recordings of the National League of Cities 2005 Congressional City Conference are available in the City Manager’s office, upon request. He advised this audio includes a recording of the leadership training sessions as well as other workshops held during the conference and encouraged council members to take advantage of this opportunity.

MANAGER'S REPORT

City Manager Moore presented the Manager's Report. He reviewed progress of current city projects/meetings scheduled during the months of May and June. 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 7:35 p.m.

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JOHN M. PROFFITT, Mayor

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MITCHELL B. MOORE, City Manager