

MINUTES OF MEETING, ATHENS CITY COUNCIL, AUGUST 16, 2005

The Athens City Council met in regular session on Tuesday, August 16, 2005, at 6:00 P.M. with Mayor Proffitt presiding. The invocation was given by Mayor Proffitt; 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 July 19, 2005, were submitted and approved by unanimous consent.

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Vice Mayor Perkinson presented the *Very Important Volunteer Individual Award* for August 2005 to Hollie Baker for her heroic deeds in assisting a young victim after a shark attack in Florida this summer. Ms. Baker along with other medical professionals who were on the beach at the time of the attack was credited with saving the life of a teenager from Lebanon, Tennessee.

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PRESENTATION OF SOAP BOX DERBY PROCLAMATIONS

City Council members presented proclamations honoring Brittany Burke (Local Super Stock Champion) and Emily Whiting (Local Stock Division Champion) for their participation in the 2005 All-American World Championship Soap Box Derby in Akron, Ohio, on July 30, 2005. Additionally, a third proclamation was presented to the Whiting family of Athens (Glenn & Connie, with their children Shawna, Matthew, Samuel, Emily, Jeremiah, and Jacob), who were honored as one of five finalists from around the world for the prestigious title of "Family of the Year" sponsored by Levi Strauss. This competition will be held annually in conjunction with the All-American Soap Box Derby.

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PETITIONS AND REQUESTS

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. Mr. David Davis of the Emmanuel Church congregation located on Congress Parkway addressed the Council regarding the Dennis Street realignment project. Mr. Davis indicated that the City's

project contractor destroyed 30 feet of his turf during the construction process. He reported speaking with city staff members early in the construction phase about drainage issues as a result of this project. Mr. Davis also indicated he contacted the City Manager on two occasions and nothing was done. After additional comments by Mr. Davis and council members, Mayor Proffitt asked the City Manager and Public Works Director to prepare a report relative to Mr. Davis' drainage complaint for discussion during the next work session. Mr. Davis was invited to attend the meeting on September 12.

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REPORTS

FINANCE DEPARTMENT REPORT

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

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OLD BUSINESS

CONSIDER REIMBURSEMENT OF CITY'S
EXPENSE TO MOVE TRAFFIC CONTROL BOX

As discussed during previous meetings, Dr. Dale Kennedy, owner of Dogwood Dental Care located at 1911 South Congress Parkway, requested the removal of a signal box (in conjunction with the signalization of the newly realigned Dennis Street extension) which was recently placed in the state right-of-way (US11) that fronts his business. Noting it was an eyesore to his business, Dr. Kennedy, during the regular meeting on June 21, 2005, indicated he would pay the costs for moving the box, if it requires it. In response to alleged communication issues associated with this project, Mayor Proffitt acknowledged that the Council, during its work session on August 8, expressed a desire to establish a committee that would streamline the process in an effort to make future development projects more business friendly. As discussion ensued, Vice Mayor Perkinson disclosed his kindred ship with Dr. Kennedy and through consultation with the City Attorney, was assured of no possible conflict of interest relative to this issue. It was confirmed that the contractor has completed the relocation of the traffic control box to an alternate site on state right-of-way US 11, and the City of Athens has paid all costs associated with this move. After other comments, motion was made by Council Member Pelley, seconded by Council Member Alvey, to take no action

relative to the question of Dr. Kennedy reimbursing any relocation costs incurred by the City. Upon discussion, Council Member Myers expressed opposition to the motion, noting the control box was relocated based on Dr. Kennedy's offer to pay costs associated with the move. Based on his review of all documentation and his affirmation that both the City of Athens and Dr. Kennedy appear to be negligent in communicating their needs or desires concerning this project, Vice Mayor Perkinson moved the motion be amended to allow the costs (\$5,100) to be evenly split between the City of Athens and Dr. Kennedy. The amendment to the motion was seconded by Council Member Myers. Upon discussion, council members Pelley and Alvey continued to stress the City's obligation *to do the right thing* and incur the full costs of the relocation of the traffic control device. After additional comments by other council members and upon roll call, the amendment passed by the following vote:

AYES: Myers, Perkinson, Proffitt

NAYS: Alvey, Pelley

In consideration of the Main Motion, Mayor Proffitt stated the Council has different ideas relative to *what is fair* and *what is the right thing to do*. He re-emphasized the initial placement and relocation of this traffic control box was on the public right-of-way. After other comments and upon roll call, the amended motion was approved by the following vote:

AYES: Myers, Perkinson, Proffitt

NAYS: Alvey, Pelley

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EMINENT DOMAIN RESOLUTION

Mayor Proffitt presented a proposed resolution, which was drafted by City Attorney Trew, relative to the Council's desire to emphasize and to voluntarily limit its eminent domain powers to projects of public use. The draft resolution further urges both the Congress of the United States and the Legislature of the State of Tennessee to pass legislation that will protect the fundamental ideal of private property ownership by imposing "public use" requirements when governmental entities invoke eminent domain powers. It was noted this resolution was not included in Council's agenda packet as it was only received from the City Attorney late this afternoon. Based on Council's desire to thoroughly review the resolution prior to consideration, motion was made by Council Member Pelley, seconded by Council Member Alvey, to defer to the September work session to allow for further review. There being no discussion, the motion was approved by the following roll call vote:

AYES: Alvey, Pelley, Perkinson

NAYS: Myers, Proffitt

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NEW BUSINESS

RECOMMENDATION FROM ARPC – REZONE GEORGIA AVENUE/OHIO STREET

Community Development Director Harold Hunter presented Minutes of the Planning Commission, meeting in regular session on August 1, 2005, unanimously recommending that certain residential properties located in the Ohio/Georgia Street area be rezoned from I-1 (Light

Industrial) to R-2 (Medium Density Residential). It was stated in the Minutes that these residential properties are nonconforming, and this proposed rezoning would benefit the area and property values substantially. Upon brief comments, the following ordinance was presented for consideration on first reading:

ORDINANCE NO. 930 – FIRST READING

“AN ORDINANCE AMENDING ORDINANCE NO. 914 ENTITLED, ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE’, SO AS TO REZONE PROPERTY ALONG GEORGIA AVENUE, OHIO AVENUE, YALE STREET, AND DALE STREET DESCRIBED IN THE BODY OF THIS ORDINANCE, FROM I-1, LIGHT INDUSTRIAL DISTRICT, TO R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT, WITHIN THE CORPORATE LIMITS OF ATHENS, TENNESSEE AND TO OFFICIALLY CHANGE THE ZONING MAP OF THE CITY OF ATHENS, TO REFLECT AND SHOW SAID CHANGE IN ZONING MADE BY THIS ORDINANCE.”

The caption of the above-described Ordinance was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Ordinance No. 930 on First Reading, and upon roll call, Ordinance No. 930 was approved by the following vote:

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

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ACCEPT MORNING POINTE DRIVE INTO CITY STREET SYSTEM

As discussed during recent work session, city staff presented documentation relative to the final inspection of the roads/drainage system in conjunction with the Morning Pointe development. In a memorandum dated July 27, 2005, Mr. Shawn Lindsey, Public Works Director stated, “The developer will need to continue to ensure vegetation is established, but all roads, catch basins, and drainage systems meet our requirements.” After brief comments, the following resolution was presented for consideration:

RESOLUTION NO. 2005-28

“A RESOLUTION ACCEPTING MORNING POINTE DRIVE INTO THE STREET SYSTEM OF THE CITY OF ATHENS, TENNESSEE.”

The caption of Resolution No. 2005-28 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Council Member Alvey, to approve Resolution No. 2005-28. After brief discussion and upon roll call, the Resolution was approved by the following vote:

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

PROPOSED CONTRACT – JANITORIAL SERVICE

During recent work session, Finance Director Mike Keith presented Bid Tabulation No. 1410 dated July 27, 2005, for janitorial services at the Athens Municipal Building (815 North Jackson Street) and the Public Works Service Center (Alford Street). It was noted that the City's current contractor, Bright & Shine Cleaning and Maintenance, has submitted the low bid for both locations; and based on their previous performance, city staff recommends acceptance of the low bid in the contractual amount of \$2,614 per month (\$2,064 for A.M.B. and \$550 for P.W.S.C.). The following resolution was presented authorizing the execution of a contract with Bright & Shine Cleaning and Maintenance, effective September 1, 2005:

RESOLUTION NO. 2005-29

“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A MAINTENANCE CONTRACT FOR CLEANING AND JANITORIAL SERVICES.”

The caption of Resolution No. 2005-29 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Council Member Myers, to approve Resolution No. 2005-29. After brief discussion and upon roll call, the Resolution was approved by the following vote:

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

MEDICAL BENEFITS PROPOSAL

As discussed during recent work session, Rita Brown, Human Resources Director, advised that proposals for employee medical benefit coverage have been evaluated. It was noted that city staff has reached a contractual agreement with the City's current provider (BlueCross BlueShield) to maintain the same medical benefits with no increase in premiums projected for 2005/06. If approved, employee bi-weekly rates will remain as follows: employee - \$56.72; employee plus one - \$115.85; family - \$166.71. After additional comments, motion was made by Vice Mayor Perkinson, seconded by Council Member Myers, to approve the proposal as submitted by BlueCross BlueShield for 2005/06. Upon roll call, the motion was approved by the following vote:

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

SURPLUS PROPERTY

As discussed during recent work session, city staff presented a proposed Surplus Property List, along with a recommendation that these items be declared surplus and offered for public sale. After brief comments, motion was made by Vice Mayor Perkinson, seconded by Council Member Myers, to approve the Surplus Property List dated August 1, 2005 as submitted. Upon roll call, the motion was approved by the following vote:

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

PROPOSED ADOPTION OF TCA CLASS C MISDEMEANORS

In a memorandum dated August 1, 2005, Chief Ziegler recommended that the City adopt an ordinance, thereby incorporating the following Class C Misdemeanors by reference: seat belt violation (TCA 55-9-603); child restraint violations (TCA 55-9-602); trespass by motor vehicle (TCA 39-14-407); window tint (TCA 55-9-107); transporting a child in a truck bed (TCA 55-8-189); helmet requirement (TCA 55-9-302); following too closely (TCA 55-8-124). It was noted that the adoption of these statutes would reduce APD's overtime requirements as well as reduce the docket in General Sessions Court. The following ordinance was presented for consideration on first reading:

ORDINANCE NO. 931 – FIRST READING

“AN ORDINANCE TO AMEND TITLE 11 OF THE ATHENS MUNICIPAL CODE TO ADD NEW MUNICIPAL OFFENSES BY INCORPORATING CERTAIN TENNESSEE STATE CRIMINAL STATUTES BY REFERENCE.”

The caption of the above-described Ordinance was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Ordinance No. 931 on First Reading, and upon roll call, Ordinance No. 931 was approved by the following vote:

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

COMMITTEE APPOINTMENTS:

Council Advisory Committee – Each member of the Athens City Council appoints five citizens to the Council Advisory Committee. Mayor Proffitt advised that one of his appointees (Jenny Slaughter) has moved out of state. To fill that unexpired term (March 21, 2007), he offered the name of Brian Heatherly, 1740 Chesapeake Drive, for Council's approval. Upon motion by Vice

Mayor Perkinson, seconded by Council Member Alvey, the appointment of Brian Heatherly to the Council Advisory Committee was unanimously approved by the following roll call vote:

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

Regional Planning Commission – Mayor Proffitt advised the term of Kenny Charles on the Athens Regional Planning Commission will expire August 18, 2005. As discussed in recent work session, Mr. Charles has acknowledged his willingness to serve another term. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to reappoint Mr. Charles to serve another three-year term on the Planning Commission. Upon roll call, the appointment was unanimously approved by the following vote:

AYES: Alvey, Myers, 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 August and September. In response to recent work session discussions, City Manager Moore distributed a memorandum from Mike Tallent of the Municipal Technical Advisory Service (MTAS) proposing to facilitate an employee survey on behalf of the City of Athens. Mr. Tallent presented a proposed timeline for completion of the survey and advised there would be no costs to the City of Athens except for return mailing postage to the MTAS office in Knoxville. Relative to the possibility of teaming with Tennessee Wesleyan College in this effort, Mr. Tallent acknowledged the majority of the work to be data entry and felt MTAS serving as the sole resource for the survey would better ensure the integrity of the data. Council Member Pelley continued to stress TWC's desire to assist in this survey; and upon unanimous consent, the MTAS proposal was deferred to the September work session for continued discussion.

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FAIR SITE UPDATE

City Manager Moore and Parks Director Austin Fesmire updated the Council relative to grading plans at the Regional Park in conjunction with the Mid-East Tennessee Regional Fair site. Mr. Fesmire advised he was contacted today by an employee of the McMinn County Landfill relative to grading issues at the Regional Park. He presented pictures showing the area currently staked for grading; and based on the Fair's current grading plan, Mr. Fesmire reported the loss of a minimum of nine historical trees of 35 to 40 feet in size. City staff reviewed with the Council an alternate site in the park for the detention area; however, it was noted that additional drainage work would be required. Noting city staff's inability to contact the Fair's engineer, Mr. Carl Thompson, council members directed City Manager Moore and Mr. Fesmire to meet with Mr. Pitt and Mr. Thompson as soon as possible and to keep council members apprised of possible actions.

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.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager