

MINUTES OF MEETING, ATHENS CITY COUNCIL, SEPTEMBER 20, 2005

The Athens City Council met in regular session on Tuesday, September 20, 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.

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MINUTES

The Minutes of the regularly scheduled meeting held on August 16, 2005, were submitted and approved by unanimous consent.

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Mayor Proffitt advised that Mr. Joe Guy, Jr., currently employed as Assistant to the McMinn County Mayor, has been recognized as the recipient of the *Very Important Volunteer Individual Award* for September 2005. Mayor Proffitt stated that Mr. Guy notified the City of his inability to attend this meeting due to a conflict at that time. Therefore, it was announced that the VIVID recipient for September will be recognized during the October Council Meeting.

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PRESENTATION OF THREE STAR AWARD PLAQUE

In recognition for community economic preparedness, McMinn County Mayor John Gentry presented a plaque from Governor Bredesen dated August 13, 2005. The plaque designates the City of Athens as a Level III *Tennessee Three-Star Award* community, allowing local municipalities and McMinn County to earn points on future grant applications.

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MISCELLANEOUS CORRESPONDENCE

Mayor Proffitt acknowledged receipt of letters and notes of appreciation for services performed by city staff members. Several expressions of appreciation were received from participants of the Charles R. Ware Reunion and Museum Exhibit ceremonies, which were held in Athens on August 24-27. Austin Fesmire, Director of Parks and Recreation, and his staff members were praised for their outstanding efforts in coordinating the activities for this event.

PETITIONS AND REQUESTS

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. Mr. Ralph Fenton, a resident of Athens, voiced his appreciation for the outstanding efforts of Austin Fesmire and his Parks and Recreation staff during the recent Ware ceremonies at Veterans Memorial Park. Also, noting the American flag salutation prior to the meeting, Mr. Fenton questioned why a formal salute was not carried in respect to the Tennessee flag. Mayor Proffitt asked staff to seek answers as to state flag protocol.

REPORTS

FINANCE DEPARTMENT REPORT

Mr. Mike Keith presented the Finance Department Report for the month of August 2005. Due to concerns about the economy because of rising costs of petroleum, Mr. Keith noted that city staff will closely monitor sales tax collections, state shared fuel taxes and fuel expenditures. 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 2005. After brief discussion and comments, the report was accepted as presented.

FIRE DEPARTMENT REPORT

Chief Bob Miller presented the Fire Department Report for the month of August 2005. After brief discussion and comments, the report was accepted as presented.

ORDINANCES

ORDINANCE NO. 930 – SECOND/FINAL READING – PUBLIC HEARING

“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.”

Upon the reading of the caption by the recording clerk, Mayor Proffitt opened the Public Hearing on Ordinance No. 930. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. Motion was made by Council Member Pelley, seconded by Council Member Myers, to approve Ordinance No. 930 on Second and Final 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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ORDINANCE NO. 931 – SECOND/FINAL READING – PUBLIC HEARING
“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.”

Upon the reading of the caption by the recording clerk, Mayor Proffitt opened the Public Hearing on Ordinance No. 931. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Ordinance No. 931 on Second and Final Reading, and upon roll call, Ordinance No. 931 was approved by the following vote:

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

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OLD BUSINESS

EMINENT DOMAIN RESOLUTION

As discussed in recent work session, Mayor Proffitt presented the following resolution which addresses Council’s desire to voluntarily limit its eminent domain powers to projects of public use and not for the benefit of another private party. The Resolution was presented for consideration:

RESOLUTION NO. 2005-30
“A RESOLUTION OF THE CITY OF ATHENS, TENNESSEE, REGARDING THE EXERCISE OF EMINENT DOMAIN POWER.”

The caption of Resolution No. 2005-30 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-30. Upon discussion, Council Member Myers noted this resolution states this Council’s commitment to voluntarily limit its eminent domain powers and calls upon this body to urge state and federal government to do the same. After comments of support by each council member, the Resolution was approved by the following roll call vote:

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

EMPLOYEE OPINION/SATISFACTION SURVEY

As discussed during recent work session, Mayor Proffitt advised that two proposals have been received as a result of the City's desire to conduct an Employee Opinion/Satisfaction Survey as follows: Tennessee Wesleyan College (TWC) at a cost of \$500; Municipal Technical Advisory Service (MTAS) at zero cost, provided the City provides postage for return mailing to MTAS office in Knoxville. Noting TWC's proposal was submitted by Kerry Towler, Assistant Professor of the Department of Education and Psychology, Council Member Pelley acknowledged his employment in the Psychology Department of Tennessee Wesleyan College. Emphasizing he has nothing to gain as a result of TWC's participation in the employee survey, Council Member Pelley felt there is no real conflict of interest which would prohibit his participation in discussion or vote. After brief comments, motion was made by Council Member Pelley, seconded by Council Member Alvey, to accept the proposal as presented by TWC. Upon discussion, Council Member Pelley acknowledged his utmost respect for the professional staff at MTAS and their experience in conducting municipal surveys; however, he felt there is a perception by many of the city employees (whether truthful or not) that the material would not be treated confidentially. It was Dr. Pelley's belief that the TWC proposal would stimulate more feedback from employees. Council Member Alvey stated that some employees have indicated to her their preference would be to use someone other than MTAS. It was her belief that the employees would not feel at liberty to be honest for fear of some type of ramification. Therefore, she indicated her willingness to consider a third option. Vice Mayor Perkinson stressed the importance of MTAS's experience in conducting employee surveys and felt there are steps to be taken to protect employee confidentially concerns. Council Member Myers stated that MTAS is a professional organization, and he questioned why the City should pay money somewhere else when that (survey) would be part of the City's dues. Mayor Proffitt acknowledged both to be good proposals from institutions of higher education and stated his willingness to consider another alternative, if recommended. Responding to concerns about specific demographic information, Mayor Proffitt advised that MTAS has agreed to meet with Council and to determine how the survey would be put together. Council Member Pelley confirmed that Ms. Towler would also be willing to meet with the City Council concerning these issues. After further comments, the following roll call vote was recorded:

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

After further comments, motion was made by Vice Mayor Perkinson, seconded by Council Member Myers, to accept the MTAS proposal, as presented, and to further meet with MTAS officials prior to administering the survey to city employees. Upon discussion, council members Pelley and Alvey spoke in opposition to this motion again expressing concern as to the perception of the employees regarding the confidentially issue. After continued comments, the Call for the Question by Council Member Pelley, seconded by Council Member Myers, was unanimously approved by the following roll call vote:

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

Mayor Proffitt reaffirmed the Call for the Question to accept the MTAS proposal to conduct the city employee survey. Upon roll call, the motion was approved by the following vote:

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

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NEW BUSINESS

NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

As noted during recent work session, the Federal Government has identified the National Incident Management System (NIMS) as being the requisite emergency management system. For that reason, failure to adopt its standards by local governments may preclude reimbursement of costs expended during and after a declared emergency or disaster and training/preparation for such emergencies/disasters. During work session, there was some discussion about training requirements for *public officials* and the desire to amend the resolution (specifically Section 2) to remove such wording. In an email dated September 14, 2005, Mr. Mike Tallent of the Municipal Technical Advisory Service (MTAS) recommends passage of the resolution with the exact wording as provided by the Federal Emergency Management Agency (FEMA). Mr. Tallent noted that the definition of public officials is broad enough to include the management level of the city, i.e. city manager and department heads. The following resolution was presented:

RESOLUTION NO. 2005-31

“A RESOLUTION TO ADOPT THE NATIONAL INCIDENT MANAGEMENT SYSTEM.”

The caption of Resolution No. 2005-31 was read by the recording clerk. Motion was made by Vice Mayor Perkinson, seconded by Council Member Myers, to approve Resolution No. 2005-31. There was continued discussion relative to training requirements for public officials. If the resolution is approved as presented, Council Member Alvey stated her preference for the Council to be trained as public officials to ensure compliance. It was suggested that NIMS training be discussed at the October work session. Also, Council Member Pelley expressed concern that it has taken 1-1/2 years for this information to reach local governments, noting the partial compliance deadline of October 1, 2005 and the full compliance deadline by October 1, 2006. After other comments 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 – REPLACE ROOF/REPAIR CANOPY AT FIRE STATION #2

During recent work session, City Council reviewed bids for roof replacement and canopy repairs at Fire Station No. 2 located at the intersection of Congress Parkway and Velma Road. In a memo dated September 7, 2005, city staff recommended approval of the low bid as submitted

by Parris Roofing of Cleveland at a cost of \$59,608. The following resolution was presented for consideration:

RESOLUTION NO. 2005-32

“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACT WITH PARRIS ROOFING FOR ROOF REPLACEMENT AND CANOPY REPAIRS AT FIRE STATION NO. 2 ON CONGRESS PARKWAY/VELMA ROAD.”

The caption of Resolution No. 2005-32 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-32. After brief discussion 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 EXTENSION – MAINTAIN DOWNTOWN FLOWER BEDS

Mayor Proffitt presented documentation dated August 5, 2005 between the City of Athens and The Potting Shed acknowledging the desire of both parties to extend contractual obligations for downtown landscaping/maintenance of flower beds. The terms of the contract will be extended for a period of one year (October 31, 2006). The following resolution was presented for consideration:

RESOLUTION NO. 2005-33

“A RESOLUTION AUTHORIZING THE EXTENSION OF A CONTRACT BETWEEN THE CITY OF ATHENS, TENNESSEE, AND THE POTTING SHED FOR DOWNTOWN LANDSCAPING/MAINTENANCE.”

The caption of Resolution No. 2005-33 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Council Member Myers, to approve Resolution No. 2005-33. After brief discussion 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 CITY OF ATHENS BUDGET AMENDMENT NO. 1 – FY 2005/06

As discussed during work session, Finance Director Mike Keith presented proposed Budget Amendment No. 1 for fiscal year 2005/06. As noted in his memorandum dated September 6, 2005, Part I adjusts Prior Year Encumbrances in the General Fund; Part II adjusts portion of generator costs budgeted in prior year; and Part III adjusts for roof repairs (including architect fees and roofing contractor) at Fire Station No. 2. In monitoring the continued increase

in fuel prices, Mr. Keith noted, "If fuel prices stay at a cost of \$3 per gallon, we will exceed the total fuel budget by \$65,000 to \$90,000 for the year." He stated that the current budget projects fuel in the range of \$1.70 to \$1.80, and city departments will continue to look at ways to reduce fuel and energy costs. After brief discussion, motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve City Budget Amendment No. 1 dated September 6, 2005. Upon roll call, the Budget Amendment was approved by the following vote:

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

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COMMITTEE APPOINTMENT – HEALTH & EDUCATION FACILITIES BOARD

Noting a vacancy (Dr. Floyd Falany, former TWC President, who no longer resides in Athens) on the Health & Education Facilities Board of Directors, Mayor Proffitt acknowledged an application on file from Mr. Tom Hughes, President & COO of SouthEast Bank & Trust. As noted in recent work session, Mr. Hughes resides in Athens and has expressed a desire to serve on this board. After brief comments, motion was made by Council Member Pelley, seconded by Council Member Myers, to appoint Mr. Hughes to fill the unexpired term (09/21/2006) on the Health & Education Facilities Board. Upon roll call, the appointment was approved by the following vote:

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

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DONATION IN SUPPORT OF HURRICANE RELIEF EFFORTS

As discussed in work session, city employees have petitioned the Council to approve their request to cancel the 2005 picnic celebration planned during the month of October and to donate the budgeted funds (\$2,000) in support of the hurricane relief efforts. It is staff's recommendation that the funding be equally split between the American Red Cross (\$1,000) and the Salvation Army (\$1,000). After expressions of appreciation by council members to staff for their concern and thoughtfulness, motion was made by Council Member Pelley, seconded by Council Member Myers, to approve staff's request as provided above. Upon roll call, the motion was approved by the following vote:

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

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COUNTY-WIDE ANIMAL SHELTER

Mayor Proffitt presented a proposed joint resolution which was passed by the McMinn County Commission during its regular meeting on September 19, 2005. The joint resolution authorizes acceptance of certain provisions in the use of the City of Athens Animal Shelter by

citizens of McMinn County, Etowah, Englewood, Niota, and Calhoun. Provisions outlined in the resolution include: McMinn County to purchase materials needed for expansion (not to exceed \$40,000) of the existing Athens Animal Shelter; annual fees include McMinn County (\$10,000), City of Etowah (\$5,000), Town of Englewood (\$2,500), Town of Calhoun (\$1,500), and Town of Niota (\$1,500), subject to an annual increase of 2% to help address operation costs increases, if required. The terms of this agreement shall be binding for three and one-half consecutive fiscal years, with the current year prorated and the expiration date being June 30, 2009. It was noted that construction labor will be provided by inmates of the Brushy Mountain Correction facility in Wartburg, Tennessee. Other terms and conditions are outlined and presented in the following resolution:

RESOLUTION NO. 2005-34

“JOINT RESOLUTION FOR USE OF CITY OF ATHENS ANIMAL SHELTER BY CITIZENS OF MCMINN COUNTY, ETOWAH, ENGLEWOOD, NIOTA, AND CALHOUN.”

The caption of Resolution No. 2005-34 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Council Member Alvey, to approve Resolution No. 2005-34. The Council expressed appreciation for the cooperative spirit in which this resolution was provided and recognized members of the Humane Society who were in attendance in support of the countywide effort. After brief discussion and upon roll call, the Resolution was 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 September and October. It was noted that a Called Meeting of the Athens City Council will be held prior to the work session (5:45 p.m.) on Monday, October 10, to review bids and to award a contract for new parking and paving construction at the Athens Regional Park. After additional discussion, the report was accepted as presented.

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ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 7:45 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager