

MINUTES OF MEETING, ATHENS CITY COUNCIL, NOVEMBER 15, 2005

The Athens City Council met in regular session on Tuesday, November 15, 2005, 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.

- 1 -

MINUTES

The Minutes of the regularly scheduled meeting held on October 18, 2005, were submitted and approved by unanimous consent.

- 2 -

COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Council Member Myers presented the *Very Important Volunteer Individual Award* for November 2005 to Mr. Steve Danneman for his outstanding support of local charitable and civic organizations within the community.

- 3 -

PRESENTATION OF CERTIFICATE OF ACHIEVEMENT PLAQUE

Mayor Proffitt acknowledged correspondence along with a press release from the Government Finance Officers Association announcing the City's receipt of the "Certificate of Achievement for Excellence in Financial Reporting" for fiscal year ended June 30, 2004. The letter states, "The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting." Mayor Proffitt presented a plaque to Finance Director Mike Keith in recognition of outstanding financial reporting for the City of Athens. In response, Mr. Keith expressed appreciation to departmental staff members, the City Manager, department heads, and auditors for their support and assistance throughout the budget process.

- 4 -

RECOGNITION OF AUSTIN FESMIRE BY WARE REUNION MEMBERS

Vice Mayor Perkinson read a letter from members of the USS Charles R. Ware Destroyer recognizing Recreation Director Austin Fesmire *as the unsung hero of the 2002 and 2005 reunions*, which were held in Athens. During a recent special ceremony at the Living Heritage Museum, a plaque of appreciation was presented to the Recreation Director on behalf of the officers and men of the destroyer USS Charles R. Ware.

- 5 -

MISCELLANEOUS CORRESPONDENCE

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

- 6 -

PETITIONS AND REQUESTS

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. There were none presented at this time.

- 7 -

REPORTS

FINANCE DEPARTMENT REPORT

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

- 8 -

POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of October 2005. After brief discussion and comments, the report was accepted as presented.

- 9 -

FIRE DEPARTMENT REPORT

In the absence of Chief Miller, Fire Marshal Jim Benton presented the Fire Department Report for the month of October 2005. After brief discussion and comments, the report was accepted as presented.

- 10 -

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.) Approve **Resolution No. 2005-44** to adopt the Third Amendment to the City of Athens Pension Plan in compliance with automatic rollover rules which were included as a part of the Economic Growth and Tax Relief Reconciliation Act of 2001;

- 2.) Approve joint purchase of fingerprinting equipment with the McMinn County Sheriff's Department in the amount of \$9,555 from the City of Athens Drug Fund.

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

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

- 11 -

NEW BUSINESS

RECOMMENDATION FROM ARPC – CLOSE COACH FARMER DRIVE

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on November 7, 2005, unanimously recommending the abandonment of a portion of Coach Farmer Drive between North Jackson and Green Street, subject to a utility easement. As discussed during recent work session, this abandonment was requested in a letter dated November 4, 2005, from Dr. Stephen Condon, President of Tennessee Wesleyan College. The following resolution was presented for consideration:

RESOLUTION NO. 2005-45

“A RESOLUTION TO OFFICIALLY CLOSE AND ABANDON THE COACH FARMER DRIVE RIGHT-OF-WAY BETWEEN NORTH JACKSON STREET AND GREEN STREET IN ATHENS, TENNESSEE, AND MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS RESOLUTION.”

The caption of Resolution No. 2005-45 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-45. After brief discussion and upon roll call, the Resolution was approved by the following vote:

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

- 12 -

RECOMMENDATION FROM ARPC – ABANDON UNOPENED ALLEYWAY BETWEEN ROYAL & NORTH JACKSON STREETS

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on November 7, 2005, unanimously recommending the abandonment of an 18 X 150-foot unopened right-of-way between Royal Street and North Jackson Street. As discussed during recent work session, this abandonment was requested by local contractor David Passmore. After brief comments, the following resolution was presented for consideration:

RESOLUTION NO. 2005-46

“A RESOLUTION TO OFFICIALLY CLOSE AND ABANDON AN APPROXIMATE 155 FT. LONG AND 16 FT. WIDE ALLEY RIGHT-OF-WAY ADJACENT AND SOUTHWEST OF ROYAL STREET IN ATHENS, TENNESSEE, AND MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS RESOLUTION.”

The caption of Resolution No. 2005-46 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-46. After brief discussion and upon roll call, the Resolution was approved by the following vote:

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

- 13 -

RECOMMENDATION FROM ARPC – ABANDON UNOPENED ALLEYWAY LOCATED ADJACENT TO 1317 SUMMITT STREET

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on November 7, 2005, unanimously recommending the abandonment of a 30 X 350-foot unopened alleyway as requested by adjacent property owner Bob Miller of 1317 Summitt Street. It was noted that adjoining property owners have been contacted and are in agreement with this requested abandonment. After brief comments, the following resolution was presented for consideration:

RESOLUTION NO. 2005-47

“A RESOLUTION TO OFFICIALLY CLOSE AND ABANDON AN APPROXIMATE 350-FOOT LONG AND 30-FOOT WIDE UNOPENED AND UNNAMED STREET RIGHT-OF-WAY ADJACENT AND SOUTH OF SUMMITT STREET IN ATHENS, TENNESSEE, AND MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS RESOLUTION.”

The caption of Resolution No. 2005-47 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Council Member Myers, to approve Resolution No. 2005-47. After brief discussion and upon roll call, the Resolution was approved by the following vote:

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

- 14 -

RECOMMENDATION FROM ARPC – HISTORIC PRESERVATION COMMISSION

Mayor Proffitt presented Minutes of the Planning Commission, meeting in regular session on November 7, 2005, unanimously recommending that City Council adopt the Historic Preservation Commission Ordinance as prepared by the Tennessee State Planning Office. After brief comments, the following ordinance was presented for consideration:

ORDINANCE NO. 932 – FIRST READING

“AN ORDINANCE TO AMEND ORDINANCE NO. 914 ENTITLED ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND CHAPTER 3, ZONING DISTRICTS, MORE SPECIFICALLY THE ADDITION OF SECTION 3.04.16 HISTORIC PRESERVATION COMMISSION AND HISTORIC OVERLAY DISTRICT.”

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. 932 on First Reading. Upon discussion, Council Member Alvey expressed concerns relative to the issuance of the Certificate of Appropriateness, the possible economic hardship on the citizens of Athens, especially as it relates to the appeals process through the court system as well as the liability and legal ramifications for the City of Athens. It was her belief that the formation of this board would cost the City more than it would gain. Mayor Proffitt also expressed concerns about the appeals process, as noted in Section I (J) of the ordinance, and offered an amendment to read as follows: *1. The AHPC shall have jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order of judgment of the commission may have said order of judgment reviewed by the Athens City Council. Anyone who may be aggrieved by any final order of judgment of the City Council may have said order of judgment reviewed by the courts by procedures of certiorari as provided for in the Tennessee Code Annotated, Sections 27-9-102 and 27-9-103.* The motion to amend was seconded by Council Member Alvey. Mayor Proffitt advised that the ordinance, as presented by the Planning Commission, has only one level of appeal, Chancery Court. He advised that this amendment would allow for two levels, with the City Council to hear the appeal prior to being heard in the court system. Since there was some discussion about the legality of the amendment as it relates to state law, City Manager Moore confirmed that he would seek a legal opinion from City Attorney Trew prior to the second reading of the ordinance. Council Member Myers questioned if inserting the *City of Athens* into the appeals process would increase the City’s liability in regard to possible lawsuits. Since the City is the creator of the board, it was City Manager Moore’s contention that any decision of the Historic Preservation Commission that would go through the court system would be a suit against the City of Athens. After additional comments and discussion, the amendment was approved by the following roll call vote:

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

In consideration of the main motion to adopt Ordinance No. 932 on first reading, Vice Mayor Perkinson spoke in favor of the ordinance feeling this was a necessary step in determining if the Council wants to continue to go forward. He stated, “Just appointing a Commission doesn’t mean we will establish a boundary.” Questioning the need for this type of Commission to be set up in Athens, Council Member Alvey stated, “Why should we proceed with this if we have truly no intention to finish it out.” She further stated that the Council represents the constituents at large, noting only a small core group of individuals support the passage of this ordinance. In expressing his support of the ordinance, Council Member Pelley agreed that the vast majority of citizens will never be impacted directly by this ordinance; however, he stressed the importance of preserving our heritage for generations to come and felt this commission would help maintain property values and improve the appearance of older communities. After additional comments and upon roll call, Ordinance No. 932, as amended, was approved by the following vote:

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

For those citizens who were in attendance, City Manager Moore stated that the Public Hearing on Ordinance No. 932 will be held during the regular meeting of the Athens City Council on Tuesday, December 20. The meeting will begin at 6:00 p.m. in the Athens Municipal Building.

- 15 -

**PROPOSED CONTRACT TO FURNISH/INSTALL
PLAYGROUND EQUIPMENT AT REGIONAL PARK**

As discussed during recent work session, Recreation Director Austin Fesmire acknowledged receipt of proposals (Bid No. 1413) for playground equipment in the amount of \$250,000 at the Regional Park. The total cost of the playground is projected to be \$297,000 as noted in the grant application. The State will fund 50% (\$148,500) of this total, with a local match of \$148,500. It was noted that \$50,000 of the local match is being funded by the Athens Parks Foundation, with the City's share being \$98,500. Upon review of the proposals by Johnson Architecture Inc., the Athens Parks Foundation Board of Directors, and the Recreation Advisory Board, a recommendation was made to accept the proposal as submitted by Recreation Services, representing Miracle Recreation Equipment Company. After brief comments, the following resolution was presented for consideration:

RESOLUTION NO. 2005-48

“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACT WITH RECREATION SERVICES OF CLARKSON, KENTUCKY, TO FURNISH AND TO INSTALL PLAYGROUND EQUIPMENT AT THE ATHENS REGIONAL PARK.”

The caption of Resolution No. 2005-48 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-48. Upon discussion, Council Member Myers stressed strong support about playgrounds, emphasizing quality of life and family involvement for local residents. Stating her absence from the Council when this project was initially discussed in October 2004, Council Member Alvey expressed opposition to the expenditure of \$98,000 for the installation of playground equipment at the Regional Park. She suggested that council consider postponing the project until the Foundation could fund the entire \$150,000. Council Member Alvey also expressed a preference to see those funds put into neighborhood parks or fund improved playgrounds at the Athens City Schools. As discussion continued, Vice Mayor Perkinson expressed support of the playground stating, “With the funds from the Foundation and the grant money, it is the right time to do it. It is a special opportunity for the City of Athens to have a special place for the citizens to go with their families.” Council Member Pelley stated his opposition to the playground project at the Regional Park, as he did when initially presented in October 2004. He emphasized his desire to promote neighborhood parks and playgrounds where children can walk with their parents. Stating he had received numerous calls in opposition to the Regional Park playground, he encouraged council members to vote against the passage of this

resolution. After further comments and upon roll call, the Resolution was approved by the following vote:

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

- 16 -

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. As discussed in recent work session, City Manager Moore noted that a copy of the draft employee survey was distributed to the council members last evening for their review. By majority consent, the council gave city staff authority to contact MTAS and begin the process. After additional discussion, the report was accepted as presented.

- 17 -

ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 7:30 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager