

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

The Athens City Council met in regular session on Tuesday, December 20, 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 November 15, 2005, were submitted. Upon motion by Council Member Myers, seconded by Vice Mayor Perkinson, said Minutes were unanimously approved by the following roll call vote:

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

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Council Member Alvey presented the *Very Important Volunteer Individual Award* for December 2005 to Mr. Sam Natter for his outstanding assistance to the Commercial Development Committee. Mr. Natter was recognized for his efforts in developing a top quality, tri-fold brochure to promote Athens, Tennessee to potential retail, industrial, and commercial prospects.

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SPECIAL DEDICATION OF "BURKETT L. WITT CITY COUNCIL CHAMBERS"

Mayor Proffitt advised that City Council, during its regular meeting on April 19, 2005, renamed the Council/Courtroom Chambers to "Burkett L. Witt City Council Chambers" in honor of former mayor/council member Witt's dedicated service and outstanding contributions to the City of Athens. On behalf of the City Council, the following proclamation was presented and becomes a part of these Minutes:

*"Whereas, Burkett L. Witt devoted over 33 years as a member on the Athens City Council from July 1971 through November 2004; and*

*Whereas, during Burkett L. Witt tenure, numerous projects were initiated through his leadership which will continue to have a revitalizing and profound impact on our community far beyond his years of service; and*

*Whereas, Burkett L. Witt has earned the admiration and high regard of those with whom he has come into contact and of his fellow public servants; and*

*Whereas, Burkett L. Witt's dedicated service to this community deserves special recognition; and*

*Whereas, in so doing, the Athens City Council, during its regular meeting on Tuesday, April 19, 2005, renamed the City Council Chambers/Courtroom in the Athens Municipal Building to "Burkett L. Witt City Council Chambers" in honor of his outstanding contributions to the City of Athens.*

*Now, Therefore, Be It Proclaimed that the Council of the City of Athens, Tennessee, meeting in regular session this 20<sup>th</sup> day of December 2005, does hereby acknowledge and dedicate these chambers in honor of Burkett L. Witt who, in distinguishing himself, has brought great honor and credit to his family, his friends, and his city."*

Former Mayor/Council Member Burkett Witt was in attendance to accept the proclamation and expressed appreciation for this recognition.

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#### MISCELLANEOUS CORRESPONDENCE

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

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#### PETITIONS AND REQUESTS

#### HISTORIC PRESERVATION COMMISSION

Mayor Proffitt acknowledged receipt of signed petitions in response to a pending ordinance to create a Historic Preservation Commission within the City of Athens. The petition notes as follows: 1. Total number of homeowners who signed a petition in support of, or against, the creation of a Historic Preservation Commission and/or the creation of the Ingleside/Madison avenues Historic District (For - 47; Against - 19). 2. Total dwellings/residences of homeowners who signed a petition as noted above, includes apartment buildings, multi-units (For - 40 (approximately); Against - 16 (approximately)).

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#### AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. The following comments are noted and made a part of these minutes:

Ms. Charlotte Jacobson, a resident of the Town & Country Apartments, expressed safety concerns at the intersection of Congress Parkway and Rocky Mount Road. With the understanding that the Tennessee Department of Transportation is currently reviewing an application for traffic signalization at this intersection, Ms. Jacobson requested that the following changes be implemented to make an immediate impact on the traffic flow through the intersection: move the 55 miles per hour sign from just before the B.P. gas station farther south on Congress Parkway; lower the speed limit on Congress Parkway in front of McMinn County High School to at least 35 MPH (possibly on both sides of the road); move the U-turn farther south to the second median to avoid collisions with people exiting the Jiffy gas station; paint lines in median; and publish safety articles in the Daily Post Athenian. Upon consent by council members, this request was referred to the January work session for further consideration.

Representing the Downtown Business Association Parking Committee, Ms. Dianne Horning requested that Council respond relative to the status of downtown parking recommendations made by the committee several months ago. Mayor Proffitt asked Chief Ziegler to address the recommendations during his monthly report to be presented later in the meeting. Additionally, Council Member Pelley suggested this request be referred to the January work session for further consideration.

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#### REPORTS

##### FINANCE DEPARTMENT REPORT

Mr. Mike Keith presented the Finance Department Report for the month of November 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 November 2005. Additionally, based on previous comments made by Dianne Horning, Chief Ziegler updated the Council on several downtown parking options which included availability of off-street parking, increase fees for parking tickets (this option was later eliminated from consideration), booting, and collection/notification of outstanding parking fines, etc. These options will be discussed in greater detail during the January work session or planning session. After other 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 November 2005. After brief discussion and comments, the report was accepted as presented.

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ORDINANCES

**ORDINANCE NO. 932 – SECOND READING – PUBLIC HEARING**

**“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.”**

Upon the reading of the caption by the recording clerk, Mayor Proffitt opened the Public Hearing on Ordinance No. 932. Several residents addressed the council relative to the passage of the proposed ordinance: **Gary Goden**, a resident of Ingleside Avenue, stated what he felt were several good reasons for the creation of a Historic Commission (free advice, investment protection, historic preservation, and increased property values) and announced his support for the creation of a local Historic Commission. Others speaking in support of historic zoning were property owner **Laura LeNoir** of 922 Woodward Avenue; **Ron Brown**, 405 East Madison Avenue; and **Jean Williams** of 506 East Madison. In opposition, **Marilyn Maughan** of East Madison Avenue presented a petition signed by residents of the East Madison/Ingleside areas for/against the historic zoning as follows: 14 signatures for, 33 signatures against, 14 undecided. Others speaking against historic zoning were **Jack Beja**, resident of 600 East Madison; **Van Wall** of 713 East Madison; **Jessica Shelton** of 700 East Madison; **Tamra Martin**, 410 County Road 210, owner of apartments (601, 603, and 605 East Madison); and **Paul Pierce** of 717 East Madison. There being no other comments, Mayor Proffitt closed the Public Hearing. After brief discussion, a motion was made by Vice Mayor Perkinson, seconded by Council Member Alvey, to table the second reading of Ordinance No. 932 to allow the Council to evaluate information received from City Attorney Trew during the recent work session and comments made during the Public Hearing. Upon roll call, the motion was approved by the following roll call vote:

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

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NEW BUSINESS

**PROPOSED CAR SHOW SCHEDULE FOR 2006**

In a letter dated November 5, 2005, from Mr. Danny Richesin, the Athens Travelers Car Club is requesting street closings in an effort to continue the monthly downtown cruise-in events for 2006 as follows: March 18, April 15, May 20, June 17, July 15, August 19, September 16, and October 21 (Toys For Kids). The events will be held from 3:00 p.m. until 10:00 p.m., with the following street closings requested: Washington Avenue, from Jackson to White Street; White Street, from Washington Avenue to Madison Avenue; Madison Avenue, from White Street to the exit of the downtown parking lot; and Jackson Street, from Bank Street to Washington Avenue. Upon motion by Council Member Myers, seconded by Council Member Alvey, the schedule as submitted by the Athens Travelers Car Club was unanimously approved by the following voice vote:

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

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#### SIDEWALK REPLACEMENT/STREET PAVING FOR 2005/06

As discussed in recent work session, Mayor Proffitt presented staff's recommendation to approve the Sidewalk Replacement List, the Street Paving List, and the Pavement Rejuvenating List for 2005/06. After brief comments and upon motion by Council Member Myers, seconded by Vice Mayor Perkinson, staff's recommendations were unanimously approved by the following roll call vote:

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

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#### SURPLUS PROPERTY – PLAYGROUND EQUIPMENT

In a memo dated December 6, 2005, Finance Director Mike Keith requested that the playground equipment currently located in the plaza area of the Regional Park be declared surplus and offered for public sale, including removal from the premises. Upon consideration, motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to declare the playground equipment as surplus property and advertise its sale/removal from the premises through GovDeals.com. In discussing the possibility of donating the equipment to a nonprofit organization, it was noted the City Attorney has recently affirmed that the City cannot donate surplus property to anyone other than another government entity. Furthermore, the equipment does not meet safety standards and has been deemed not safe in its current condition. Recreation Director advised that the potential new owner will be made aware of these safety concerns prior to purchase. After further comments, the motion was unanimously approved by the following roll call vote:

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

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#### INCREASE ANIMAL ADOPTION/RECLAIM FEES

As discussed during recent work session, city staff has recommended the following fee changes for adoption or reclaim of animals at the Athens Shelter: increase adoption fees for dogs and cats to \$40 (current fees include dogs @ \$35; cats @ \$30); increase reclaim fee to \$15 for first day and \$5 for each additional day (current fee - \$12 for first day; \$2 for each additional day). As noted in a memo dated December 1, 2005, from Public Works Director Shawn Lindsey, this recommendation is in accordance with the opening of the shelter to McMinn County agencies in January and will help prevent city residents from paying for services provided to county residents. After brief comments, the following resolution was presented for consideration:

**RESOLUTION NO. 2005-49**

**“A RESOLUTION TO INCREASE ANIMAL ADOPTION FEES AT THE CITY OF ATHENS ANIMAL SHELTER, EFFECTIVE JANUARY 1, 2006.”**

The caption of Resolution No. 2005-49 was read by the recording clerk. Motion was made by Vice Mayor Perkinson, seconded by Council Member Myers, to approve Resolution No. 2005-49. Upon discussion, Council Member Pelley indicated members of the Humane Society have expressed concerns that increasing the rates will reduce animal adoptions. Vice Mayor Perkinson acknowledged that a recent fee comparison with other municipalities showed Athens the lowest of all area cities. After other comments, the Resolution was approved by the following roll call vote:

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

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**PROPOSED CONTRACT FOR CONCRETE WORK**

As discussed in recent work session, the City of Athens submitted Bid No. 1414 dated November 15, 2005, for formed-in-place sidewalks, curbs and gutters, and handicap ramps. Based on the only bid submitted, city staff recommends acceptance of the bid submitted by East Tennessee Construction Services of Englewood upon compliance with all bid requirements, including proper insurance and bonds. After brief comments, the following resolution was presented for consideration:

**RESOLUTION NO. 2005-50**

**“A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY OF ATHENS, TENNESSEE, AND EAST TENNESSEE CONSTRUCTION SERVICES FOR CONCRETE WORK.”**

The caption of Resolution No. 2005-50 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-50. After brief discussion, the Resolution was approved by the following roll call vote:

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

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**PROPOSED CONTRACT EXTENSION– PARK MAINT./MOWING (SECTIONS I & II)**

As discussed during recent work session, city staff recommends the extension of a contract with Sharp’s Mowing of Niota for park maintenance in accordance with Bid No. 1395. Contractual obligations include furnishing labor, materials, supplies, tools, and equipment necessary to perform all work and services required for mowing and trimming designated city-owned properties as follows: Section I (Cook Park, Knight Park, and Veterans Park @ annual

base bid of \$6,820); Section II (Heritage Park, Knox Park, and Fisher Field & annual base bid of \$11,550). The mowing season is expected to begin on or about April 1, 2006, and to conclude on or about December 1, 2006. The following resolution was presented for consideration:

**RESOLUTION NO. 2005-51**

**“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.”**

The caption of Resolution No. 2005-51 was read by the recording clerk. Motion was made by Vice Mayor Perkinson, seconded by Council Member Alvey, to approve Resolution No. 2005-51. After brief discussion, the Resolution was approved by the following roll call vote:

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

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**PROPOSED CONTRACT – PARK MAINTENANCE/MOWING (SECTION III)**

As discussed during recent work session, city staff recommends the extension of a contract with Total Lawn Care for park maintenance in accordance with Bid No. 1395. Contractual obligations include furnishing labor, materials, supplies, tools, and equipment necessary to perform all work and services required for mowing and trimming designated city-owned properties as follows: Section III (Athens Municipal Building, Fire Station II, City Park Pool, Ingleside Tennis/Pool Complex, North City Pool, Seven Welcome Signs, Decatur Pike Median/Island @ annual base bid of \$9,130). The mowing season is expected to begin on or about April 1, 2006, and to conclude on or about December 1, 2006. The following resolution was presented for consideration:

**RESOLUTION NO. 2005-52**

**“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.”**

The caption of Resolution No. 2005-52 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Council Member Pelley, to approve Resolution No. 2005-52. After brief discussion, the Resolution was approved by the following roll call vote:

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

PROPOSED CONTRACT – PEST CONTROL AT CITY-OWNED PROPERTIES

As discussed during recent work session, city staff recommends the extension of a contract with Cook’s Pest Control for pest control services at city-owned facilities in accordance with Bid No. 1391. The terms of the contractual agreement are hereby extended through January 31, 2007, at an annual cost of \$2,150. The following resolution was presented for consideration:

**RESOLUTION NO. 2005-53**

**“A RESOLUTION AUTHORIZING THE EXTENSION OF A CONTRACT FOR PEST CONTROL SERVICES AT CITY-OWNED FACILITIES.”**

The caption of Resolution No. 2005-53 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-53. After brief discussion, the Resolution was approved by the following roll call vote:

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

PROPOSED CONTRACT – ALCOHOL & DRUG TESTING

As discussed during recent work session, city staff recommends the renewal of a contract with Comprehensive Compliance of Chattanooga to administer a drug and alcohol testing program for DOT positions and safety sensitive (non-DOT) positions within the City of Athens. The terms of the contractual agreement are hereby extended for a period of twelve months, effective January 1, 2006. The following resolution was presented for consideration:

**RESOLUTION NO. 2005-54**

**“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO RENEW A CONTRACT WITH COMPREHENSIVE COMPLIANCE (LLC) TO ADMINISTER A DRUG AND ALCOHOL TESTING PROGRAM FOR THE CITY OF ATHENS.”**

The caption of Resolution No. 2005-54 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-54. Upon discussion, Council Member Alvey questioned the local comparison rates as submitted by staff during recent work session. When contacting local providers (Athens Regional, Athens Medical Group, Woods, Athens Family Practice), she was given different rates; however, she acknowledged those rates might have been based on different panel specifics. She expressed her desire to see employee training conducted locally. In response, Human Resource Director Rita Brown advised as of Monday, December 19, 2005, she had reaffirmed that no local provider could administer the employee education program as required by DOT. After further comments, the Resolution was approved by the following roll call vote:

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

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PROPOSED TDOT CONTRACT TO PURCHASE CITY PROPERTY  
(UNION HILL ROAD) IN CONJUNCTION WITH HIGHWAY 30 PROJECT

As discussed during recent work session, City Manager Moore advised that the Tennessee Department of Transportation has proposed to purchase city-owned property along Union Hill Road in conjunction with State Project No. 54007-2214-14 (the widening of Highway 30 from Athens to Etowah). The following resolution authorizes the acceptance and execution of an agreement with the Tennessee Department of Transportation to purchase city property at a cost of \$15,700:

**RESOLUTION NO. 2005-55**

**“A RESOLUTION TO ENTER INTO AN AGREEMENT WITH THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION FOR PURCHASE AND DAMAGE TO CITY OWNED PROPERTY IN CONJUNCTION WITH THE WIDENING OF HIGHWAY 30 BETWEEN ATHENS AND ETOWAH.”**

The caption of Resolution No. 2005-55 was read by the recording clerk. Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Resolution No. 2005-55. After brief discussion, the Resolution was approved by the following roll call 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 December and January. 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 7:50 p.m.

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JOHN M. PROFFITT, Mayor

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MITCHELL B. MOORE, City Manager