

MINUTES OF MEETING, ATHENS CITY COUNCIL, APRIL 20, 2004

The Athens City Council met in regular session on Tuesday, April 20, 2004, at 6:00 P.M. with Mayor Perkinson presiding. The invocation was given by Vice Mayor Proffitt; and upon roll call, the following members were present:

Myers, Pelley, Perkinson, Proffitt, Witt

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 March 16, 2004, were submitted. Upon motion by Vice Mayor Proffitt, seconded by Council Member Witt, said Minutes were unanimously approved.

- 2 -

COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF PROCLAMATION – TWC LADY BULLDOGS

Council Member Pelley presented a proclamation honoring Coach Stan Harrison and members of the TWC Lady Bulldogs basketball team for their significant accomplishments during the 2003/04 season. In compiling a record of 32 wins and only three losses, the Lady Bulldogs finished the 2003/04 season ranked No. 8 in the nation in NAIA Division II and in doing so, set school records for consecutive wins (25), wins in a season (32), and points scored in a season (2,264). Additional accomplishments by this team include: finishing the regular season ranked No. 1 in the AAC and bringing home the championship trophy during post-season tournament play; appearing in the National Association of Intercollegiate Athletics (NAIA) National Championship Tournament, finishing as a participant in the *Sweet Sixteen*; and receiving numerous athletic/academic awards (*All-Conference – Monique Herron, Niki Dixon, Renee Robinson; Academic All-Conference – Hailey Stiles, Monique Herron; and NAIA All-American Scholar-Athlete – Hailey Stiles*). Other team members and coaches being recognized were: *April Bell, Tawnie Brown, Beth Bryant, Loren Chastain, Amber Cook, Niki Dixon, Annie Hargis, Mandy Hash, Monique Herron, Renee Robinson, Ta'Sheika Short, Hailey Stiles, Tessa Tate, Heather White, Lindsey White, along with Associate Head Coach Jeff Rice and Assistant Coaches Brianne Dodgen and Angel Hardaway.*

- 3 -

PRESENTATION OF VIVID AWARD

Vice Mayor Proffitt presented the *Very Important Volunteer Individual Award* for 2004 to Ms. Jackie Jenkins for her community service in conjunction with Habitat For Humanity, United Way of McMinn County, McMinn Federal Credit Union, and Keith Memorial United Methodist Church. Ms. Jenkins was also recognized as a former City of Athens employee (Director of Finance) from September 1989 to April 1994.

MISCELLANEOUS CORRESPONDENCE

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

EMPLOYEE OF THE QUARTER

Ms. Rita Brown, Human Resources Director, presented the “Employee of the Quarter” award for the period ending March 31, 2004. Detective Patrick Upton was recognized for his outstanding dedication to the City of Athens in performing his duties as an officer of the Athens Police Department. As in the past, the recipient of this award receives a \$50 savings bond and becomes eligible for the “Employee of the Year” award, which is given annually to recognize significant service to the City of Athens.

PETITIONS AND REQUESTS

AUDIENCE

Mayor Perkinson opened the meeting for petitions and requests from the audience. Mr. Ralph Fenton, a resident of 3050 Hawthorne Street, advised that an unveiling of a memorial is being planned in Washington to honor World War II veterans on May 29, 2004. He stated that cities across the nation are planning special tributes in conjunction with this event and urged the City to plan and coordinate special activities in Athens. It was noted that a county-wide celebration is being planning by the American Legions of both Etowah and Athens, with a special tribute honoring local World War II veterans being held at McMinn Central High School. The Council thanked Mr. Fenton for his comments and advised that the City of Athens would consider how we can compliment local activities already being planned in our county.

6:20 P.M.....The Athens City Council recessed and reconvened as the Athens Beer Board

BEER BOARD

RESTAURANT BEER PERMIT – RUBY TUESDAY, 1830 HOLIDAY DRIVE

City Manager Moore presented an application for a Restaurant Beer Permit at a new Ruby Tuesday under construction at 1830 Holiday Drive. 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. City Manager Moore stated that the restaurant’s management has requested the beer application be approved contingent upon the issuance of the final Certificate of Occupancy by the City of Athens. After further comments, motion was made by Council Member Pelley, seconded by Vice Mayor

Proffitt, 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 voice vote, the motion was unanimously approved.

- 8 -

OWNERSHIP CHANGE – MONTERREY RESTAURANT – 319 CONGRESS PARKWAY

City Manager Moore presented an application for a new beer permit at the Monterrey Mexican Restaurant located at 319 Congress Parkway. It was noted that the business currently has a beer permit, however, a change of ownership of at least fifty percent (50%) of the stock of the corporation requires the issuance of a new permit. 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. Jose Cordero, 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 further discussion, motion was made by Council Member Witt, seconded by Council Member Pelley, to approve the beer application as submitted. Upon voice vote, the motion was unanimously approved.

- 9 -

OWNERSHIP CHANGE – MONTERREY RESTAURANT – 2624 DECATUR PIKE

City Manager Moore presented an application for a new beer permit at the Monterrey Mexican Restaurant located at 2624 Decatur Pike. It was again noted that the issuance of a new beer permit is required due to a change of ownership at this location. 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. After further comments, motion was made by Council Member Pelley, seconded by Council Member Witt, to approve the beer application as submitted. Upon voice vote, the motion was unanimously approved.

6:25 P.M.....The Athens Beer Board adjourned and reconvened as the  
Athens City Council

- 10 -

REPORTS

FINANCE DEPARTMENT REPORT

Mr. Mike Keith presented the Finance Department Report for the month of March 2004. The report was accepted as presented.

POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of March 2004. As a follow-up to last month's meeting, Chief Ziegler advised that he met with Mr. James Williams relative to speeding motorists at his residence on 2112 Hammerhill Road. Mr. Ziegler stated that the Police Department is continuing to run radar on Hammerhill at least five times daily. When discussing the recent traffic fatality occurring at the vicinity of 1418 Hammerhill, Chief Ziegler advised radar would not have prevented this accident in that excessive speed and drinking were the primary contributing factors. After additional comments, the report was accepted as presented.

FIRE DEPARTMENT REPORT

Chief Bob Miller presented the Fire Department Report for the month of March 2004. The report was accepted as presented.

SPECIAL PRESENTATION – FIRE DEPARTMENT

As discussed during last month's meeting, department heads have been asked to make presentations each month to City Council regarding that department's efforts to save money for the City of Athens. Chief Bob Miller of the Athens Fire Department advised that the department consists of 20 full time employees (18 firefighters, one fire marshal, and one fire chief), 20 on-call firefighters (volunteers); two fire stations, 11 motorized vehicles, Hazardous Materials Van, and Mobile Command Post. He advised that the department is committed to cost savings for both the municipal government and its citizens, with a primary objective to save lives and properties and a secondary objective to assist other city departments in their efforts to economize. According to Chief Miller, one of the department's main goals is to maintain its current Class 3 ISO fire rating. It was noted that the Class 3 rating results in a significantly reduced insurance rate for the citizens of Athens. In an effort to promote other cost saving measures, Chief Miller and AFD staff members assist other departments through minor repairs and tasks throughout the municipal building (plumbing, painting, transporting paper products, building maintenance, retrieving mail from Post Office, security after office hours, etc.) Through the Fire Prevention Division, safety programs are made available to local school systems, nursing homes, hospitals, daycare facilities, as well as commercial and industrial enterprises. Other services include fire safety inspections provided to residential customers; pre-fire planning conducted on commercial and industrial buildings; smoke detector promotions in conjunction with Lowe's. Also, he advised that the Athens Fire Department assists with Emergency Medical Service calls, as needed. After other comments, the Council acknowledged the efforts of the Athens Fire Department and encouraged its continued diligence in maintaining our current ISO rating and protection for our citizens.

COMMUNITY DEVELOPMENT QUARTERLY REPORT

Mr. Harold Hunter, Community Development Director, presented the Building Permit Quarterly Report for the City of Athens. For the quarter ending March 31, he reported 160 permits issued, with valuation fees estimated at \$3,253,496. After further comments, the report was accepted as presented.

QUITCLAIM DEED – HARPER JOHNSON DRIVE

Mr. Harold Hunter advised that he was recently contacted by City Attorney Trew relative to the possible transfer by the City of a small triangular piece of property located on Harper Johnson Drive. It was noted that this property was abandoned by the City of Athens several years ago; however, the deed was never executed and properly recorded. Therefore, in order to obtain a clear title for a property transferal, a local realty agent in conjunction with Branch Banking & Trust Company (BB&T) has requested that the City of Athens execute a Quitclaim Deed to clear up any boundary line dispute. The following resolution was presented for consideration:

**RESOLUTION NO. 2004-21**

**“A RESOLUTION AUTHORIZING THE TRANSFER OF REAL PROPERTY ON HARPER JOHNSON DRIVE TO RESOLVE A BOUNDARY ISSUE.”**

Mayor Perkinson read the caption of Resolution No. 2004-21. Since this transaction involves his current employer (BB&T), the Mayor acknowledged that he would reclude himself from the vote and discussion. After brief comments, motion was made by Council Member Pelley, seconded by Council Member Witt, to approve Resolution No. 2004-21. Upon voice vote, the Resolution was approved by a unanimous 4-0 vote, noting Mayor Perkinson’s abstention.

ORDINANCES

**ORDINANCE NO. 917 – SECOND/FINAL READING**

**“AN ORDINANCE TO UPDATE THE ATHENS MUNICIPAL CODE TO REFLECT CURRENT CITY OF ATHENS POLICIES AND PROCEDURES.”**

Mayor Perkinson read the caption of the above-described Ordinance. Motion was made by Council Member Myers, seconded by Vice Mayor Proffitt, to approve Ordinance No. 917 on Second and Final Reading. Upon discussion, Council Member Pelley voiced his opposition to Section 10, making on-street parking in excess of 24 hours illegal within the City of Athens without prior approval of the Chief of Police. It was Dr. Pelley’s opinion that going from 72 hours (as provided in the City’s previous ordinance) to 48 hours was more appropriate. Again, it was reiterated by other council members and the city manager that the 24 hour limit is a recommendation through consultation with attorneys and consultants of the Municipal Technical

Advisory Service. Due to considerable comments relating to downtown parking, Vice Mayor Proffitt emphasized this 24 hour limit will affect on-street parking on all public streets within the City of Athens, not just the downtown area. After other comments, Ordinance No. 917 was approved by the following roll call vote:

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

- 17 -

OLD BUSINESS

RECOMMENDATION FROM ARPC – ADOPT LAND USE PLAN

Mayor Perkinson presented Minutes/Resolution by the Planning Commission, meeting in regular session on January 5, 2004, unanimously recommending that City Council adopt and implement the Land Use & Transportation Policy Plan for 2004 through 2014. The following resolution was presented for consideration:

**RESOLUTION NO. 2004-22**

**“A RESOLUTION TO ADOPT THE ATHENS LAND USE AND TRANSPORTATION POLICY PLAN 2004-2014.”**

Mayor Perkinson read the caption of Resolution No. 2004-22. Mr. Bryan Shults, Staff Planner for the State Planning Office, thanked Council for its patience and support throughout this process. He advised that the policies are now in place, however, additional changes will be recommended, as needed. He stated that the entire plan should be reviewed by the City of Athens every three years to ensure continued compliance. After additional comments, motion was made by Vice Mayor Proffitt, seconded by Council Member Myers, to approve Resolution No. 2004-22. Upon voice vote, the Resolution was approved, with Council Member Pelley voting nay.

- 18 -

NEW BUSINESS

RECOMMENDATION FROM ARPC – REZONING REQUEST

Mr. Harold Hunter, Community Development Director, presented Minutes of the Planning Commission, meeting in regular session on April 5, 2004, unanimously recommending that City Council rezone properties on East Madison Avenue (Fairview Place Subdivision) from B-1 (Local Business District) to R-2 (Medium Density Residential). After additional comments, the following ordinance was presented for consideration:

**ORDINANCE NO. 918 – FIRST READING**

**“AN ORDINANCE AMENDING ORDINANCE NO. 853 ENTITLED, ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE, DATED 1999,’ SO AS TO REZONE THAT AREA LOCATED ON EAST MADISION AVENUE, DESCRIBED IN THE BODY OF THIS ORDINANCE, FROM B-1, LOCAL BUSINESS DISTRICT, TO R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT, AND TO CHANGE THE ZONING**

**MAP OF THE CITY OF ATHENS DATED MARCH 16, 1999, TO REFLECT AND SHOW SAID CHANGE IN ZONING MADE BY THIS ORDINANCE.”**

Mayor Perkinson read the caption of the above-described Ordinance. Motion was made by Council Member Witt, seconded by Council Member Pelley, to approve Ordinance No. 918 on First Reading, and upon roll call, Ordinance No. 918 was approved by the following vote:

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

- 19 -

**SUBMISSION OF GRANT APPLICATIONS FOR PARK DEVELOPMENT**

As discussed during recent work session, the following resolutions authorize the City of Athens to submit grant applications for continued parks development:

**RESOLUTION NO. 2004-23**

**“A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR LWCF/LPRF FUNDING BEING ADMINSTRATED THROUGH THE STATE OF TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION FOR CONTINUED PARKS DEVELOPMENT.”**

Mayor Perkinson read the caption of Resolution No. 2004-23. As discussed during recent work session, the City of Athens desires to use this funding for the expansion of parking, community playground, security measures, accessibility improvements to comply with ADA, and maintenance improvements at the Athens Regional Park. It was noted that the grant in the amount of \$285,500 must be matched locally dollar-for-dollar for a total project cost of \$571,000. After additional comments, motion was made by Vice Mayor Proffitt, seconded by Council Member Myers, to approve Resolution No. 2004-23. Upon discussion, Council Member Pelley voiced his opposition to this grant, stating that the budget needs to be more austere in the appropriation of local funds. After further comments, the Resolution was approved by a four to one voice vote, with Council Member Pelley voting nay.

**RESOLUTION NO. 2004-24**

**“A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION THROUGH THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION FOR GRANT FUNDS FOR FURTHER DEVELOPMENT OF THE TRAIL SYSTEM AT THE REGIONAL PARK/EXPOSITION CENTER.”**

Mayor Perkinson read the caption of Resolution No. 2004-24. As discussed during recent work session, the City of Athens desires to use this funding for continued development of Athens’ trail system in the Regional Park. It was noted that the grant in the amount of \$100,000 must be matched locally (twenty cents on the dollar) for a total project cost of \$125,000. After additional comments, motion was made by Council Member Myers, seconded by Council Member Witt, to approve Resolution No. 2004-24. After further comments, the Resolution was approved by a four to one voice vote, with Council Member Pelley voting nay.

RATIFY PRIVATE CHAPTER NO. 92/HOUSE BILL 3558

City Manager Moore presented a certified copy of Private Chapter No. 92, House Bill 3558, enacted by the General Assembly of the State of Tennessee on March 11, 2004. These minor wording changes will update the City Charter to conform to its present structure. As required by law, the following resolution must be approved by a two-thirds vote of the governing body and forwarded to the Secretary of State for official ratification:

**RESOLUTION NO. 2004-25**

**“A RESOLUTION APPROVING PRIVATE CHAPTER NO. 92, HOUSE OF REPRESENTATIVES BILL NO. 3558, PASSED BY THE 103<sup>RD</sup> GENERAL ASSEMBLY OF THE STATE OF TENNESSEE.”**

Mayor Perkinson read the caption of Resolution No. 2004-25. Motion was made by Council Member Pelley, seconded by Council Member Myers, to approve Resolution No. 2004-25, and upon voice vote, the Resolution was unanimously approved.

MANAGER'S REPORT

City Manager Moore presented the Manager's Report. He reviewed progress of current city projects/meetings scheduled during the months of April and May. 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 7:50 p.m.

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WILLIAM BO PERKINSON, Mayor

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MITCHELL B. MOORE, City Manager