

MINUTES OF MEETING, ATHENS CITY COUNCIL, DECEMBER 21, 2004

The Athens City Council met in regular session on Tuesday, December 21, 2004, 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, Perkinson, Proffitt

Council Member Pelley was out-of-town and did not attend the meeting.

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 16, 2004, were submitted. Upon motion by Vice Mayor Perkinson, seconded by Council Member Myers, said Minutes were unanimously approved.

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARDS

Vice Mayor Perkinson invited the award recipient for November, Mr. John Coker, to come forward at this time. (Mr. Coker was unable to attend last month's meeting.) Mr. Coker was recognized for his outstanding support of the Florida Hurricane Relief effort. It was noted that Mr. Coker organized a local program called the "Storm of Relief" for the purpose of assisting victims in Florida. Council Member Myers presented December's VIVID award to Kathy Dougherty, Kim Grater, and Terri Wall for their work with Habitat For Humanity of McMinn County. Each recipient was recognized for his/her outstanding support of the City of Athens through the presentation of a plaque and a VIVID lapel pin.

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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

AUDIENCE

Mayor Proffitt opened the meeting for petitions and requests from the audience. He announced that each petitioner would be given three minutes, with the option to allow another three minutes upon approval of the council. After other brief comments, Mr. Clay Chastain, 311 Pope Street, presented a petition to impose a ¼ cent sales tax for a period of five years (June 1, 2005 through May 31, 2010) for the purpose of constructing a 300-500 seat theatre on downtown property currently serving as a municipal parking lot. Mr. Chastain's petition contained the

names of 102 individuals. Additionally, he read a letter from Greeneville, TN, acknowledging the benefits derived from the construction of a similar arts facility in that city. In closing, Mr. Chastain urged the Council to call a public hearing to consider a referendum for a sales tax increase to finance the construction of a downtown theatre. After other comments and upon approval by Council, Mr. Chastain's request was referred to January work session for further discussion.

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REPORTS

FINANCE DEPARTMENT REPORT

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

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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. 2004-63** to enter into Memorandum of Understanding with Knoxville Police Department for their assistance in providing EOD technicians in response to explosive ordinance situations;
- 2.) Approve **Resolution No. 2004-64** to enter into a contract with Cook's Pest Control of Knoxville (Bid No. 1391), effective February 1, 2005, at annual cost of \$2,150;
- 3.) Approve **Budget Amendment No. 2** dated December 13, 2004 to increase Athens City Schools expenditures for funding provided for renovations and to increase fixed assets in Fire Department for grant purchases;
- 4.) Approve **Resolution No. 2004-65** to authorize submission of grant application to U.S. Department of Agriculture Rural Development for vitalization of downtown Athens;
- 5.) Reappoint **Lou Pascarella** to serve another three-year term on City of Athens Retirement Committee, term expires January 16, 2008;

- 6.) Reappoint *Becky Simpson, Allan Gentry, and Jackie Newman* to serve another three year term on International Relations Committee, terms expire January 20, 2008;
- 7.) Appoint *Council Member Alvey* to serve as Council's representative on Department of Juvenile Services and Senior Citizens Board, terms expire November 21, 2006;
- 8.) Appoint *Council Member Myers* to serve as Council's representative on Economic Development Authority and reappoint to City of Athens Retirement Committee, terms expire November 21, 2006;
- 9.) Reappoint *Mayor Proffitt* to serve as Council's representative on Athens Parks Foundation, term expires November 21, 2006;
- 10.) Reappoint *Vice Mayor Perkinson* to serve as Council's representative on SE TN Trade & Conference Board, term expires November 21, 2006;
- 11.) Appoint *Council Member Pelley* to serve as Council's representative on International Relations Committee, term expires November 21, 2006;
- 12.) Approve *Resolution No. 2004-66* to execute an amended interlocal agreement with the City of Cleveland for disposal of yard wastes consisting of brush, leaves, yard trimmings, and wood.

On motion by Council Member Myers, seconded by Council Member Alvey, the Consent Agenda as stated above was unanimously approved by voice vote.

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ORDINANCES

ORDINANCE NO. 924 – 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 PARCEL 112 OF MCMINN COUNTY TAX MAP NUMBER 55, DESCRIBED IN THE BODY OF THIS ORDINANCE, FROM B-4, HIGHWAY AND MAJOR ARTERIAL SERVING BUSINESS DISTRICT, TO R-3, HIGH DENSITY RESIDENTIAL DISTRICT, SAID PARCEL BEING MORE ACCURATELY DESCRIBED AS BEING 947 ROCKY MOUNT ROAD 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. 924. 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. 924 on Second and Final Reading, and upon roll call, Ordinance No. 924 was approved by the following vote:

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

OLD BUSINESS

PROPOSED DEADLINE – COUNCIL WORK SESSION AGENDA

Mayor Proffitt acknowledged recent difficulties in preparing the work session agenda as it relates to defining a deadline for additions and accompanying documentation. In order to give staff adequate time to research items for work session and based upon discussions with city staff, it was the Mayor's recommendation to establish a deadline for agenda items/documentation of *12:00 Noon on Wednesday prior to the work session*. He further recommended that a copy of the final work session agenda and accompanying documentation be disseminated to council members on Friday prior to the scheduled work session on Monday. It was suggested and agreed that any emergency items received after that deadline would be allowed only at the discretion of the city manager. After other brief comments by council members, it was determined that these proposed guidelines are acceptable and will be implemented immediately.

NEW BUSINESS

AMEND BEER CODE – ELIMINATE TAVERN BEER CLASSIFICATION

As discussed in recent work session, Mayor Proffitt presented an ordinance to eliminate the tavern beer classification from the Athens Beer Code. The proposed ordinance grandfathered the existing tavern permits, which includes the VFW Post 5146 located at 706 Congress Parkway, Athens Elks 1927 at 109 South Hill Street, and Classic Lanes at 1019 Congress Parkway. (For clarification, Jackson Street Restaurant has changed locations and its letter of relinquishment will be presented for acceptance by the Beer Board later in the meeting.) After brief comments, the following ordinance was presented for consideration:

ORDINANCE NO. 925 – FIRST READING

“AN ORDINANCE TO AMEND CERTAIN SECTIONS OF CHAPTER 2 OF TITLE 8 OF THE ATHENS MUNICIPAL CODE TO REMOVE TAVERNS AS A CLASSIFICATION ELIGIBLE FOR A BEER PERMIT.”

Upon the reading of the caption by the recording clerk, motion was made by Council Member Myers, seconded by Council Member Alvey, to approve Ordinance No. 925 on First Reading. Upon discussion, Council Member Myers stated that the City Council has spent several months considering the question of continuance/removal of the tavern classification from the City of Athens Beer Code. He recalled that Council placed a temporary moratorium on tavern permits during its regular meeting on August 17, 2004. This moratorium was necessitated due to inadequate procedures in place to fill a tavern vacancy should there be a relinquishment from one of the current permit holders. After careful study and upon discussions with the city attorney, law enforcement personnel, and other city staff members, Council Member Myers noted that it was his desire to introduce an ordinance for the purpose of eliminating the tavern permit classification from the Athens Beer Code. He expressed his support for the passage of this ordinance and urged other council members to do likewise. After brief comments of support by other council members and upon roll call, Ordinance No. 925 was approved by the following vote:

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

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AMEND BEER CODE – ADD NEW BEER PERMIT CLASSIFICATION (PRIVATE CLUB)

To further amend the Athens Beer Code, Mayor Proffitt presented an ordinance which will define a new classification for certain types of clubs. It was noted that the proposed ordinance defines a club as a non-profit association as described by Tennessee Code Annotated §57-4-102(7)(A)(B). City Manager Moore summarized the criteria for this classification as follows: must be non-profit; hold an existing license from the Alcoholic Beverage Commission; have been in existence a minimum of two years; have a fee structure and a membership of at least 100. After brief comments, the following ordinance was presented for consideration:

ORDINANCE NO. 926 – FIRST READING

“AN ORDINANCE TO AMEND CHAPTER 2 OF TITLE 8 OF THE ATHENS MUNICIPAL CODE TO ADD A NEW CLASSIFICATION ELIGIBLE FOR A BEER PERMIT.”

Upon the reading of the caption by the recording clerk, motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Ordinance No. 926 on First Reading, and upon roll call, Ordinance No. 926 was approved by the following vote:

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

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AMEND CODE SECTION 14-104 RELATIVE TO ARPC MEMBERSHIP

Mayor Proffitt presented an ordinance, which will amend the Athens Municipal Code to reflect council representation on the Athens Regional Planning Commission. This change allows the mayor *or a person designated by the mayor* to serve on the ARPC. After brief comments, the following ordinance was presented for consideration:

ORDINANCE NO. 927 – FIRST READING

“AN ORDINANCE TO AMEND TITLE 14, CHAPTER 1, SECTION 14-101, OF THE ATHENS MUNICIPAL CODE ENTITLED MUNICIPAL PLANNING COMMISSION.”

Upon the reading of the caption by the recording clerk, motion was made by Vice Mayor Perkinson, seconded by Council Member Alvey, to approve Ordinance No. 927 on First Reading, and upon roll call, Ordinance No. 927 was approved by the following vote:

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

APPROVE PURCHASE OF FIRE PUMPER

As discussed during recent work session, city staff presented a bid tabulation to replace the 1976 fire pumper. Upon review of the three bids submitted (KME - \$350,546; Southern Emergency Products - \$336,408; and Ferrara Fire Apparatus - \$371,744), city staff presented written documentation recommending the acceptance of KME's bid in the amount of \$350,546. In regard to the low bid submitted by Southern Emergency Products, city staff has recommended rejection based on noncompliance with bid specifications, noting that multiple vendors would be involved in this purchase. After other comments and upon confirmation of approval, city council accepted the low bid as submitted by KME.

PROPOSED CHARTER CHANGES – BIDDING PROCEDURES

As discussed during recent work session, the following resolution authorizes a Charter Amendment relative to certain bidding procedures for the Utilities Board and the City of Athens:

RESOLUTION NO. 2004-67

“A RESOLUTION REQUESTING THAT STATE LEGISLATORS INTRODUCE AN ACT TO AMEND THE CHARTER OF THE CITY OF ATHENS.”

The caption of Resolution No. 2004-67 was read by the recording clerk. Motion was made by Council Member Myers, seconded by Vice Mayor Perkinson, to approve Resolution No. 2004-67. City Manager Moore noted that upon approval by Council and adoption of the Private Act by State Legislature, the proposed Charter change will be returned to the City of Athens for final approval by a two-thirds vote of the legislative body. 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 December and January. Additionally, he distributed copies of an updated Strategic Plan, which reflects the accomplishments made during the past year. He was happy to advise that out of 34 items listed, at least 64% were completed or brought to some resolution. It was noted that this document will be presented for further discussion during the upcoming Planning Sessions on January 21-22, 2005. After other comments, the report was accepted as presented.

CONDOLENCES TO FAMILY OF KENNETH HIGGINS

Mayor Proffitt acknowledged the recent death of former city attorney Kenneth Higgins, who served the City of Athens continuously from July 1, 1959, until his retirement on September 1, 2000. His devotion to this community was recognized, and an expression of prayer and condolences was extended to members of his family.

**7:04 P.M.....The Athens City Council recessed and reconvened as
the Athens Beer Board**

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BEER BOARD

RELINQUISHMENT OF TAVERN BEER PERMIT – JACKSON STREET RESTAURANT

Mayor Proffitt acknowledged receipt of a letter from Dianne Horning relinquishing the Tavern Beer Permit at Jackson Street Restaurant located at 1046 N. Congress Parkway. Ms. Horning advised that the business has changed locations, effective December 1, 2004. After brief comments and upon motion by Vice Mayor Perkinson, seconded by Council Member Myers, the relinquishment was unanimously approved by voice vote.

**7:05 P.M.....The Athens Beer Board adjourned and reconvened as
the Athens City Council**

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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 7:05 p.m.

JOHN M. PROFFITT, Mayor

MITCHELL B. MOORE, City Manager