

MINUTES OF MEETING, ATHENS CITY COUNCIL, AUGUST 21, 2012

The Athens City Council met in regular session on Tuesday, August 21, 2012, at 6:00 p.m. with Mayor Buttram presiding. The invocation was given by Vice Mayor Perkinson; and upon roll call, the following members were present:

Davis, Perkinson, Buttram

*Council Member Pelley arrived at 6:06 p.m.*

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 of July 17, 2012 was submitted and approved by unanimous consent.

- 2 -  
COMMUNICATIONS

PRESENTATION OF SOAP BOX DERBY PROCLAMATIONS

Mayor Buttram presented a proclamation honoring Nathan Turner (Local Stock Car Champion), Council Member Pelley presented a proclamation honoring Jacob Whiting (Local Super Stock Car Champion), and Vice Mayor Perkinson presented a proclamation honoring Haylee Rodgers (Super Kids Champion) for their participation in the 2012 All-American World Championship Soap Box Derby in Akron, Ohio. Austin Fesmire, Director of Parks and Recreation, and his staff were commended for their involvement with the Soap Box Derby for the past eighteen (18) years.

- 3 -  
PRESENTATION OF VIVID AWARD

Council Member Davis presented the *Very Important Volunteer Individual Award* for August 2012 to Helen Kettenbeil, Edna Pickens and Eula Rogers for their outstanding support of this community.

- 4 -  
MISCELLANEOUS CORRESPONDENCE

Mayor Buttram acknowledged receipt of letters of appreciation for services performed by City staff.

- 5 -  
PETITIONS AND REQUESTS

REQUESTS FROM AUDIENCE

Mayor Buttram opened the meeting for petitions and requests from the audience. There were no petitions or requests presented at this time.

- 6 -  
REPORTS

FINANCE DEPARTMENT REPORT

Mr. Michael Keith, Finance Director, presented the Finance Department Report for the month of July 2012. The report was accepted as presented.

- 7 -

POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of July 2012. The report was accepted as presented.

- 8 -

FIRE DEPARTMENT REPORT

Fire Chief Jim Dyer presented the Fire Department Report for the month of July 2012. The report was accepted as presented.

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CONSENT AGENDA

Mayor Buttram advised that items h.) and i.) of the Consent Agenda required a date change and would be handled separately. It was noted that all of the items were discussed during the recent work session. The recording clerk read the following items into the record:

- a.) Accept bid (Bid No. 1570 dated August 8, 2012) as submitted by Bonnell Industries for a leaf collection machine;
- b.) Accept bid (Bid No. 1571 dated August 8, 2012) as submitted by Matthew's Grinding for debris disposal;
- c.) Accept bid (Bid No. 1573 dated August 9, 2012) from Rogers Group for asphalt material delivered and put down as well as asphalt milling; and accept bids jointly from Rogers Group, APAC, Wright Bros. Construction and Tally Construction for asphalt material picked up by City;
- d.) Accept bid (Bid No. 1574 dated August 9, 2012) from Vulcan Materials for stackable stone for stream mitigation;
- e.) Approve Resolution No. 2012-29 to authorize extension of a contract with Metro Janitorial Services, Inc. for cleaning services of the Athens Municipal Building and Public Works Service Center through August 31, 2013;
- f.) Appoint Council Member Ann Davis to serve on the Athens Regional Planning Commission as the Mayor's designee;
- g.) Reappoint Ralph Fenton to serve a three-year term on the Athens Regional Planning Commission, term expires September 21, 2015;

**Motion was made by Vice Mayor Perkinson, seconded by Council Member Davis, to approve the Consent Agenda as stated above.** Upon roll call, the motion to approve the Consent Agenda was approved by the following vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**

**Motion was made by Council Member Pelley, seconded by Council Member Davis, to reappoint Tom Hughes to serve a six-year term on the Health & Education Facilities Board, term expires September 21, 2018.** Upon roll call, the motion was approved by the following vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**

**Motion was made by Council Member Davis, seconded by Vice Mayor Perkinson, to reappoint Stewart Smith to serve a six-year term on the Health & Education Facilities Board, term expires September 21, 2018. Upon roll call, the motion was approved by the following vote:**

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**

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NEW BUSINESS

Mayor Buttram advised Council that the Athens Municipal Code specifies the order of business at each council meeting. However, under New Business there were two items from the Planning Commission that needed to be addressed before the Council considered Ordinance No. 1005 on the annexation of property along Highway 305 Exit 52.

RECOMMENDATION FROM ARPC – PLAN OF SERVICES – HIGHWAY 305 EXIT 52

PUBLIC HEARING

Mayor Buttram opened the Public Hearing on the Plan of Services for Highway 305 Exit 52. Mr. Doyle Daniels, 102 County Road 242, stated his concerns regarding fire protection in the area. It was noted that 29 fire hydrants would be installed in the area to be annexed. There being no one else present wishing to discuss the Plan of Services, Public Hearing was closed.

RESOLUTION NO. 2012-30

**A RESOLUTION ADOPTING A PLAN OF SERVICES FOR THE ANNEXATION OF PROPERTY ALONG HIGHWAY 305 BY THE CITY OF ATHENS, TENNESSEE.**

The caption of Resolution No. 2012-30 was read by the recording clerk. **Motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Resolution No. 2012-30.** There being no further discussion, the Resolution was approved by the following roll call vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**

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ORDINANCES

ORDINANCE NO. 1005 – SECOND/FINAL READING – PUBLIC HEARING

**AN ORDINANCE TO ANNEX PROPERTY ALONG STATE ROUTE HIGHWAY 305 AS SHOWN ON THE ATTACHED MAP, AND DESCRIBED IN THE BODY OF THIS ORDINANCE, AND TO INCORPORATE THE SAME WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF ATHENS, TENNESSEE.**

The caption of the above-described Ordinance was read by the recording clerk. Mayor Buttram opened the public hearing. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. **A motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Ordinance No. 1005 on Second and Final Reading.** Ordinance No. 1005 was approved by the following roll call vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**  
**ABSENT: None**

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**ORDINANCE NO. 1006 – SECOND/FINAL READING – PUBLIC HEARING**

**AN ORDINANCE TO AMEND ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND THE OFFICIAL ZONING MAP TO INCLUDE AND ZONE PROPERTY ALONG THE HIGHWAY 305, EXIT 52 AREA TO R-1 (LOW DENSITY RESIDENTIAL DISTRICT), B-4 (HIGHWAY AND MAJOR ARTERIAL SERVING BUSINESS DISTRICT), AND I-2 (HEAVY INDUSTRIAL DISTRICT) SAID AREA BEING LOCATED WITHIN THE CORPORATE LIMITS OF ATHENS, TENNESSEE.**

The caption of the above-described Ordinance was read by the recording clerk. Mayor Buttram opened the public hearing. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. **A motion was made by Council Member Davis, seconded by Vice Mayor Perkinson, to approve Ordinance No. 1006 on Second and Final Reading.** Ordinance No. 1006 was approved by the following roll call vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**  
**ABSENT: None**

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**ORDINANCE NO. 1007 – SECOND/FINAL READING – PUBLIC HEARING**

**AN ORDINANCE TO AMEND THE OFFICIAL ZONING ORDINANCE TO MAINTAIN ELIGIBILITY IN THE NATIONAL FLOOD INSURANCE PROGRAM FOR THE CITY OF ATHENS, TENNESSEE.**

The caption of the above-described Ordinance was read by the recording clerk. Mayor Buttram opened the public hearing. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. **A motion was made by Vice Mayor Perkinson, seconded by Council Member Pelley, to approve Ordinance No. 1007 on Second and Final Reading.** Ordinance No. 1007 was approved by the following roll call vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**  
**ABSENT: None**

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**ORDINANCE NO. 1008 – SECOND/FINAL READING – PUBLIC HEARING**

**AN ORDINANCE TO AMEND TITLE 12 OF THE ATHENS MUNICIPAL CODE ENTITLED ‘BUILDING, UTILITY, ETC. CODES’ TO ADOPT THE 2009 EDITION OF THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL PLUMBING CODE, THE INTERNATIONAL MECHANICAL CODE, THE INTERNATIONAL RESIDENTIAL BUILDING CODE AND TO REFLECT CURRENT POLICIES AND PROCEDURES.**

The caption of the above-described Ordinance was read by the recording clerk. Mayor Buttram opened the public hearing. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. **A motion was made by Council Member Pelley, seconded by Council Member Davis, to approve Ordinance No. 1008 on Second and Final Reading.** Ordinance No. 1008 was approved by the following roll call vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**  
**ABSENT: None**

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NEW BUSINESS

RECOMMENDATION FROM PLANNING COMMISSION

**ORDINANCE NO. 1009**

**AN ORDINANCE TO AMEND TITLE 14 OF THE ATHENS MUNICIPAL CODE, ENTITLED 'ZONING AND LAND USE CONTROL', MORE SPECIFICALLY CHAPTER 2, SECTION 3.04.09.C TO ADD REGULATIONS ADDRESSING REBUILDING SINGLE FAMILY HOMES IN ANNEXED AREAS INITIALLY ZONED B-4 HIGHWAY AND MAJOR ARTERIAL SERVING BUSINESS DISTRICT AS USES PERMITTED ON REVIEW.**

The caption of the above-described Ordinance was read by the recording clerk. Mayor Buttram asked Anthony Casteel, Director of Community Development, to explain the proposed ordinance. Mr. Casteel stated that the Athens Regional Planning Commission had asked him to look at protecting the single family homes in the area to be annexed. The problem was that the zoning regulations would not allow single family homes to be rebuilt in an area zoned B-4. The proposed ordinance would allow single family homes in areas of the city annexed after August 2012 to be rebuilt if the structure is determined to be at least 51% destroyed by fire or natural disaster. **A motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve Ordinance No. 1009 on First Reading.** Upon roll call, the first reading of Ordinance No. 1009 was approved by the following vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**  
**ABSENT: None**

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CONSIDERATION OF REQUEST TO SURPLUS WEAPONS

**A motion was made by Vice Mayor Perkinson, seconded by Council Member Pelley, to approve request to surplus weapons as proposed.** Upon roll call, the motion was approved by the following vote:

**AYES: Davis, Pelley, Perkinson, Buttram**  
**NAYS: None**  
**ABSENT: None**

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CONSIDERATION OF SCOPE OF SERVICES AND FEE PROPOSAL FROM LITTLEJOHN ENGINEERING FOR ENVIRONMENTAL SERVICES REQUIRED FOR THE RAILS TO TRAILS PROJECT

**A motion was made by Vice Mayor Perkinson, seconded by Council Member Davis, to approve the scope of services and fee proposal from Littlejohn Engineering for environmental services required for the Rails to Trails Project.** Vice Mayor Perkinson stated that they had to do their due diligence and have the environmental testing accomplished before they could consider moving forward. He noted that most of the money for these services would be reimbursed back to the City. Mayor Buttram stated the study was a requirement of CSX. Council Member Pelley rose in opposition to the motion. He stated he understood the work needed to be done and commented that although he likes the Rails to Trails project immensely he felt that it was inappropriate to use taxpayers' dollars to fund the project. Council Member Davis noted that when they were first considering the project a public meeting was held and by a show of hands approximately 70% of those in attendance were interested in moving forward. She stated that hotel/ motel tax money could be used to pay for the City's portion of the project and noted that CSX had stated the property would not revert back to the property owners if the City did not purchase it but would seek private ownership. Council Member Pelley agreed that hotel/motel tax funds could be used for this project but that there were so many more tourism activities that could be funded instead. Vice Mayor Perkinson stated that the biggest reason to

do this project was for economic development. We as a community must venture out to see ways we can attract growth. This is a possibility. Upon conclusion of the discussion and upon roll call, the motion was approved by the following vote:

**AYES:** Davis, Perkinson, Buttram  
**NAYS:** Pelley  
**ABSENT:** None

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CONSIDERATION OF APPOINTMENT TO ATHENS CITY COUNCIL TO FILL VACANCY

Mayor Buttram stated that at last month's meeting it was announced that the City Council would be accepting nominations to fill the seat vacated by Council Member Jackson after he announced his resignation. The City Charter states that when any vacancy shall occur, such vacancy shall be filled by the Councilmen. He noted that three very qualified candidates had submitted their resumes for the seat – their names were Connie Fain-Woodcock, Charles C. Senn and Jamison Sliger.

**A motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson for purposes of discussion, to override the Charter and not appoint someone to fill the vacancy.** Council Member Pelley stated that he did not believe shall meant will and with three months left until the election he felt it was silly to fill the vacancy and did not feel they would be in violation of the Charter. Vice Mayor Perkinson stated he felt they should defer to the City Manager with regard to discussions he had with the City Attorney on this issue. City Manager Moore stated that the City Attorney said that shall means that you will and that the Charter directs the Council to appoint someone. Mayor Buttram asked City Manager Moore if the City Council has the authority to disregard the Charter. City Manager Moore responded that in his non-legal opinion if the Charter states that you shall then you should. Vice Mayor Perkinson noted that the School Board language is not the same as the City with regard to filling a vacancy. Council Member Pelley asked City Manager Moore if legal counsel was asked specifically if the City Council could override the Charter. City Manager Moore responded that he did not ask that specific question. Upon conclusion of the discussion and upon roll call, the motion failed by the following vote:

**AYES:** Pelley  
**NAYS:** Davis, Perkinson, Buttram  
**ABSENT:** None

**A motion was made by Vice Mayor Perkinson, seconded by Council Member Davis, to select Jamison Sliger as the new council appointment to the Athens City Council.** After brief comments and upon roll call, the motion was approved by the following vote:

**AYES:** Davis, Perkinson, Buttram  
**NAYS:** None  
**ABSTAIN:** Pelley

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MANAGER'S REPORT

City Manager Moore presented the Manager's Report. He reviewed the progress of current city projects/meetings scheduled during the months of August and September. After brief comments, the report was accepted.



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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 7:43 p.m.



R. HAL BUTTRAM, Mayor



MITCHELL B. MOORE, City Manager