

MINUTES OF MEETING, ATHENS CITY COUNCIL, JANUARY 20, 2015

The Athens City Council met in regular session on Tuesday, January 20, 2015, at 6:00 p.m. with Mayor Davis presiding. The invocation was given by Council Member Burris; and upon roll call, the following members were present:

Burris, Pelley, Raper, Perkinson, Davis

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 of December 16, 2014 was submitted and approved by unanimous consent.

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COMMUNICATIONS

Council Member Pelley requested a point of personal privilege and responded to comments made in the Daily Post-Athenian's "Sound Off" column regarding his alleged disclosure of confidential information to WYXI regarding Project Stopwatch.

RESOLUTION RECOGNIZING MAYOR BUTTRAM'S SERVICE

In honor of Mayor Buttram's outstanding leadership and service to the City of Athens and on behalf of the City Council, Mayor Davis presented the following resolution:

RESOLUTION NO. 2015-01

A RESOLUTION OF COMMENDATION TO MAYOR R. HAL BUTTRAM FOR OUTSTANDING LEADERSHIP AS A MEMBER OF THE ATHENS CITY COUNCIL FROM NOVEMBER 2006 THROUGH NOVEMBER 2014.

Upon the reading of Resolution No. 2015-01 in its entirety, the Resolution was adopted. Mayor Buttram stated he was truly grateful to Mayor Davis and the City Council for the resolution but the accolades in the resolution belong to the entire Council and wonderful staff at the City of Athens. It has been his pleasure to work with this group of people.

Austin Fesmire, Parks and Recreation Director, stated members of the USS Charles Ware asked him to make a presentation to Mayor Buttram. Mr. Fesmire presented the Mayor with a shirt from their last reunion in Athens and a satchel for his work with them. On behalf of the Parks and Recreation Department, Mayor Buttram was presented an official staff t-shirt for all the times he volunteered for them. Finally, the members of the USS Charles Ware wanted Mr. Fesmire to present Mayor Buttram with a challenge coin from the last reunion.

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PRESENTATION OF AMERICAN FLAG

Austin Fesmire stated when the USS Charles R. Ware members were in Athens for their 2014 reunion they asked him to present the American flag to the Mayor and City Council. They wanted the flag to be displayed in City Hall in honor of USS Charles R. Ware 1945 DD-865 1974 departed shipmates. Challenge coins were given to each Council member from the reunion.

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PRESENTATION OF PROCLAMATION - SCHOOL BOARD APPRECIATION WEEK

Mayor Davis read a proclamation recognizing the week of January 25 - 31, 2015 as "School Board Appreciation Week". Mike Simmons, Athens City Middle School Principal, was present to accept the proclamation on behalf of the Athens City Schools.

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MISCELLANEOUS CORRESPONDENCE

Mayor Davis acknowledged receipt of a letter of appreciation from Louise Kincade to Officer Kevin Gray of Athens Police Department. Ms. Davis commented that Reverend Van Hardaway in his message at the Martin Luther King Service held at St. Paul's Episcopal Church talked about the proactive stance the Athens Police Department had taken in racial profiling. He remarked that it was a very forward movement for our community to prevent things from happening like they have seen in other communities around the country.

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PETITIONS AND REQUESTS

AUDIENCE

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

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REPORTS

FINANCE DEPARTMENT REPORT

Mr. Michael Keith, Finance Director, presented the Finance Department Report for the month of December 2014. 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 December 2014. Council Member Burris commended Chief Ziegler for the Traffic Stop Data presentation he made at the City Council's Work Session. He felt it was very good presentation and wished more people could see it. Chief Ziegler thanked Council Member Burris and stated that he already had a number of presentations scheduled in the future. After a brief discussion, the report was accepted as presented.

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FIRE DEPARTMENT REPORT

Chief Dyer presented the Fire Department Report for the month of December 2014. The report was accepted as presented.

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CONSENT AGENDA

Mayor Davis advised that the following items were discussed during the recent work session and are presented as a part of the Consent Agenda. The recording clerk read the items into the record:

- a.) Approve Athens Travelers Car Show Request for the 2015 Downtown Cruise In;
- b.) Approve 2015 Sounds of Summer Concert Series Request at Market Park;
- c.) Approve Resolution No. 2015-02 to declare the week of January 25 - 31, 2015, Athens Flood Awareness Week;
- d.) Approve Resolution No. 2015-03 to authorize submission of a grant application to Tennessee Department of Economic and Community Development through the Community Development Block Grant Program;

- e.) Approve Resolution No. 2015-04 to authorize submission of grant application through the Governor's Highway Safety Program;
- f.) Accept low bid (Bid No. 1611 dated January 2, 2015) as submitted by Lee Smith for a Sanitation Sideloaders;
- g.) Appoint Caroline Young to fill vacancy on Keep McMinn Beautiful, term expires March 6, 2017.

On motion by Council Member Pelley, seconded by Vice Mayor Perkinson, the Consent Agenda as stated above was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

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NEW BUSINESS

ACCEPTANCE OF COMPREHENSIVE FINANCIAL AUDIT (CITY/ AUB/ ACS)

Mr. Keith presented the Comprehensive Annual Financial Report for the year ended June 30, 2014. He reminded the City Council that they had received a clean audit report. Mr. Keith briefly highlighted the key components of the report. He invited anyone with questions regarding this report to contact the Finance Department. Interested individuals will find the current financial report and reports from prior years on the city's web site. Copies of the report are also available for review in the Finance Department. The Annual Comprehensive Financial Audit for the year ended June 30, 2014 was accepted as presented.

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PROPOSED RETAIL LIQUOR STORE ORDINANCE

ORDINANCE NO. 1035 – FIRST READING

AN ORDINANCE TO AMEND TITLE 8 OF THE ATHENS MUNICIPAL CODE, ENTITLED 'ALCOHOLIC BEVERAGES', BY RENUMBERING THE EXISTING CHAPTER 2, ENTITLED 'BEER', AS CHAPTER 3 AND ADDING A NEW CHAPTER 2, ENTITLED 'LIQUOR STORES'.

Mayor Davis recognized City Attorney Chris Trew and asked him to update them on the proposed retail liquor store ordinance. Mr. Trew stated this was an important matter for Council, the citizens of Athens and those individuals that might want to apply for a liquor retail license to consider so they needed to get it right the first time. He said one thing he had not been able to do was to talk to the Tennessee Alcoholic Beverage Commission. Chief Ziegler did talk to Tennessee Alcoholic Beverage Commission on some issues and in conversations he had with the Chief, City Manager Moore and his own research they had come up with the proposed ordinance. If he had subsequent conversations with Tennessee Alcoholic Beverage Commission and was told the order in which they were doing things was not accurate then they may have to start again. They were having trouble ascertaining whether the City needs to look at all of its requirements and vote on whether to issue a license to a perspective applicant first and then send documents to the State or whether it was the reverse. The reason he could not tell was because there was not much guidance in the statutes he had read or the regulations issued by Tennessee Alcoholic Beverage Commission. City Attorney Trew commented he had also looked at adopted ordinances from surrounding municipalities and one stated the individual had to go to the State first and another jurisdiction said the opposite. Copies of the proposed ordinance with revisions from discussion at Work Session were distributed. The State will not issue its license until it receives a Certificate of Compliance from the City. One of the requirements for a Certificate of Compliance is for the City Manager to represent that the applicant is a person of good moral standing which would require a background check. The Manager would need to certify that the location complies with the requirements of the City ordinance that authorizes these establishments and also certify the number of locations the Alcoholic Beverage Commission will be asked to review. Mr. Trew stated before an applicant can ask the City to issue a Certificate of Compliance they must meet certain criteria. The applicant must publish in the Daily Post-Athenian on three successive occasions a note to the public that states the names of all owners involved, that the applicant is going to seek from the State a license, and is going to seek from

the City a license to operate a liquor store from the specific location they name in the publication. City Attorney Trew stated the ordinance that was before them had been gone over by Council for over an hour and one half at Work Session and he was only going to highlight the changes. The first change was on Page 3 of 13, (n) **Manufactured building** was added to the definitions because the Council had stated at Work Session they did not want any type of pre-fab, modular, manufactured home, etc. On Page 4 of 13, **8-205. Location of Liquor Store** it was decided that stores would be limited to B-2 or B-3 business districts. These districts are basically along Congress Parkway from end to end and Highway 30 from end to end. The downtown area was covered in the B-2 designation. Also included in this section was a five hundred feet (500') minimum distance requirement from any building used as a school or church. The minimum distance requirement shall not be applicable in the downtown business district which is defined as that area with the interior of the boundaries of Baxter Street, College Street, Hill Street, and Park Street. **8-206. Requirements for Building Containing Liquor Store** as discussed earlier no liquor store shall be located within a manufactured building as defined in this chapter. All liquor stores shall be located within a newly constructed building or within an existing building to be renovated or refurbished. The plans for any new building or for the renovation or refurbishing of an existing building must be approved by the Athens City Community Development Office and the Athens City Council. The building must have a brick façade. The liquor store display area shall be at least one thousand eight hundred (1,800) square feet, except for stores in the downtown business district which shall have a display area at least nine hundred (900) square feet. City Attorney Trew stated he found in Tennessee Code Annotated the time and days of operation which is reflected in **8-207. Restrictions Generally (b) Time and Days of Operation**. State law mandates that no one under the age of eighteen (18) years of age can enter a liquor store. The Advertising section was reviewed by City Manager Moore, the Community Development Director and the City Attorney and was revised so it was acceptable to them. **8-208. Fees** was written so that the inspection fee would be the maximum amount allowable by the State of Tennessee so as the City grows or shrinks they would not have to change the ordinance. City Attorney Trew stated this ordinance provides procedurally that the City is going to act on the application to determine whether to issue a license before any materials go from the City to the State unless the Alcoholic Beverage Commission tells us differently. The one change that had to be made if the City Council approved the ordinance was to the caption on Page 8 of 13, **8-213. Application**. Originally this section only dealt with the application. Mr. Trew felt that the Application and Certificate of Compliance could be addressed in one section and recommended that title be changed to **Application for Certificate of Compliance and Local Liquor Retailer's License**. There will still be two separate forms to be completed. The Tennessee Code gave the City Council the authority to establish the residency requirements they requested. A discussion followed with regard to the investigation fee of \$500. Upon conclusion of the discussion, it was the consensus of the Council to leave the fee at \$500. On Page 10 of 13, City Attorney Trew recommended **8-216. License from City to Operate Liquor Store** be revised to read "At the time an applicant or applicant group applies for a Certificate of Compliance to operate a retail liquor store pursuant to Tenn. Code Ann. §57-3-101, et seq., the applicant shall apply to the city manager for a local liquor retailer's license to operate a retail liquor store pursuant to this Chapter and the following terms, conditions and restrictions." On **8-217. Restrictions on Local Liquor Retailer's Licenses**, Mr. Trew stated at Work Session it appeared to be the consensus during the discussion of the issue when determining who gets the licenses when it is limited to three that it should be on a first come first serve basis. Another option would be to conduct a lottery. He suggested the lottery draw may be better than the first come first serve basis. The way it would work would be the person or persons that were interested in a liquor store license would come get the two applications from the City. They would not be able to submit the applications the next day because they would have to run the publication previously discussed on three successive occasions with the representations that are required. The City would need to have in its application or policy something the Council approves before the last reading that states when they were going to accept new applications after that publication has run. City Attorney Trew stated he could foresee, and it may not happen that way, that if applications were accepted on a first come first serve basis, you could have individuals lined up at City Hall. Without having an officer posted outside, you would not be able to determine who came first. If you have a lottery, applications would be submitted after the advertising requirements have been met. The City Manager or whoever is designated would review the applications to make sure all the requirements have been met. If there were more than three applications that met all the requirements, the lottery would determine the three the Council would issue a Certificate of Compliance to the State. The State would review the applications and if it did not approve one of the applications submitted then the Council would submit a Certificate of Compliance for the next name drawn in the lottery. City Manager Moore stated that he would suggest the lottery because he did not think they should put City staff or anyone

else in a situation as the City Attorney had described as there were too many things that could go wrong. Council Member Pelley disagreed with City Attorney Trew with regard to the lottery. Council Member Burris stated at Work Session he opposed the first come first serve method. A discussion followed and upon conclusion City Attorney Trew advised the Council that the first thing the Council needed to do was to decide with a motion and a second whether they wanted to pass the ordinance on first reading or delay it. **A motion was made by Council Member Pelley to vote on the proposed ordinance on First Reading.** The motion died for lack of a second. City Attorney Trew stated he could draft two ordinances, both of the ordinances would contain the first two changes mentioned earlier and then one would allow for a lottery and the other would be on the first come first serve basis. **A motion was made by Council Member Burris, seconded by Council Member Raper, to accept on first reading the proposed ordinance with the following changes: on page 8 to the caption would read "Application for Certificate of Compliance and Local Liquor Retailer's License" and index would change accordingly; 8-216 shall read "At the time an applicant or applicant group applies for a Certificate of Compliance to operate a retail liquor store pursuant to Tenn. Code Ann. §57-3-101, et seq., the applicant shall apply to the city manager for a local liquor retailer's license to operate a retail liquor store pursuant to this Chapter and the following terms, conditions and restrictions."; 8-217 shall read "There shall be one (1) local liquor retailer's license issued for every six thousand (6000) or fraction thereof residents of the City of Athens, Tennessee according to the most recent Federal Census, for the sale of alcoholic beverages at liquor stores. Based upon the present population of the City of Athens, Tennessee, there shall be issued no more than three (3) local liquor retailer's licenses issued based upon a lottery draw of the applications which meet all of the state and local requirements for a license if more than three (3) applications are received."** Council Member Pelley stated he was opposed to the lottery but would vote for the motion because he felt the citizens of Athens had spoken and they wanted this passed the sooner the better. Upon roll call, the first reading of Ordinance No. 1035 as amended was approved by the following vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

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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 January and February. 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 7:57 p.m.



ANN S. DAVIS, Mayor



MITCHELL B. MOORE, City Manager