

MINUTES OF MEETING, ATHENS CITY COUNCIL, OCTOBER 18, 2016

The Athens City Council met in regular session on Tuesday, October 18, 2016, at 6:00 p.m. with Mayor Davis presiding. Council Member Raper asked Austin Fesmire, Parks and Recreation Director, to give the invocation; 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.

- 1 -
MINUTES

The Minutes of the regularly scheduled meeting of September 20, 2016 was submitted and approved by unanimous consent.

- 2 -
COMMUNICATIONS

MISCELLANEOUS CORRESPONDENCE

Mayor Davis acknowledged receipt of letters of appreciations sent to Fire Chief Jim Dyer, Police Chief Chuck Ziegler, Police Captain Rob Davis and Public Works Director Shawn Lindsey.

- 3 -
PETITIONS AND REQUESTS

AUDIENCE

Mayor Davis opened the meeting for petitions and requests from the audience. Paul Morrill, 106 Peach Street, suggested the City look into sharing services with McMinn County. Laura Sullivan, 19 Shawnee Trail, spoke about code enforcement within the city. Darrell McCormick, 701 High Street, spoke in opposition to the proposed ordinance on unsightly vehicles parked or stored on private property zoned residential. Mr. McCormick stated there were enough car ordinances and felt the City did not need another one. John Coker, 3042 Hawthorne Street, handed a copy of Ordinance No. 420, adopted on March 3, 1970, regarding abandoned motor vehicles on private property to the City Council and City Manager. According to a newspaper article from 1970 regarding that ordinance, the Police Chief was given the authority to enforce the ordinance. Mr. Coker asked who was responsible for enforcement of the City codes. City Manager Moore responded the Police Department works with Community Development to enforce the Code. Larry Eaton, 279 Sweetfield Valley Road, spoke about credit card receipts for the meals on council travel. He wanted to know if anyone was looking at why the fire department was losing so many personnel. City Manager Moore stated the City Council and city employees are on a per diem when they travel. For example, if Council Member Pelley had breakfast and lunch in Pittsburgh then you would look at the chart for that city to determine the rate for those meals. If you spend more than that on your meal, you will only be reimbursed for the amount on the chart. If you spend less than that on your meal, you will be reimbursed the per diem rate. Vice Mayor Perkinson asked Mr. Eaton to provide City Manager Moore with an example of the difference. Mr. Eaton stated he will provide the City Manager with the information. Doug Luttrell, 607 Shoemaker Street, forfeited his time. Tim Hughes, 714 James Street, advised the Council that they were going to start next week planning for next year's Sounds of Summer program.

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REPORTS

FINANCE DEPARTMENT REPORT

Finance Director Michael Keith presented the Finance Department Report for the month of September 2016. The report was accepted as presented.

- 5 -

POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of September 2016. The report was accepted as presented.

- 6 -

FIRE DEPARTMENT REPORT

Chief Dyer presented the Fire Department Report for the month of September 2016. The report was accepted as presented.

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COMMUNITY DEVELOPMENT QUARTERLY REPORT

Mr. Anthony Casteel, Community Development Director, presented the Building Permit Quarterly Report for the City of Athens. 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.) Accept bid (Bid No. 1638 dated September 20, 2016) as submitted by Matthew's Grinding for brush grinding;
- b.) Approve staff's recommendation to declare assorted items as surplus property and authorize sale on GovDeals as detailed in memorandum from Matthew Marshall, Director of Purchasing dated September 21, 2016.

On motion by Vice Mayor Perkinson, seconded by Council Member Burris, 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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ORDINANCES

CONSIDERATION OF PROPOSED ORDINANCE TO ADDRESS UNSIGHTLY VEHICLES PARKED OR STORED ON PRIVATE PROPERTY ZONED RESIDENTIAL

ORDINANCE NO. 1056 – SECOND/FINAL READING – PUBLIC HEARING

AN ORDINANCE TO ADD A CHAPTER 7 TO TITLE 13 OF THE ATHENS MUNICIPAL CODE RELATING TO THE PARKING OR STORING OF AN UNSIGHTLY VEHICLE ON CERTAIN PRIVATE PROPERTY.

The caption of the above-described Ordinance was read by the recording clerk. Mayor Davis opened the public hearing. John Coker asked for clarification on the wording "certain private property". City Attorney Trew explained this ordinance relates to residential properties. The proposed ordinance addresses unsightly vehicles parked or stored on private property zoned residential. All property in the city not owned by the government is considered private property. Darrell McCormick stated he felt the ordinance was trying to cover too much. There were already too many ordinances related to cars and soon citizens would not be able to do anything with regard to cars on their property. He urged the council not to pass the ordinance. Laura Sullivan stated she was in support of the proposed ordinance. She felt an ordinance such as this was needed in the city to protect the homeowners. There being no one else present wishing to discuss the Ordinance, Public Hearing was closed. **A motion was made by Council Member Burris, seconded by Council Member Raper, to approve Ordinance No. 1056 on Second**

and Final Reading. Council Member Burris asked if enforcement of this ordinance would be on an on call basis only. He asked if the Code Enforcement Officer or police officers ride and see something that looks out of Code, do they have the right to cite them. City Manager Moore responded they had that right. Ordinance No. 1056 was approved by the following roll call vote:

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

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NEW BUSINESS

CONSIDERATION OF PROPOSED ORDINANCE TO ADOPT THE INTERNATIONAL ENERGY CONSERVATION CODE, 2009 EDITION

ORDINANCE NO. 1057 – FIRST READING

AN ORDINANCE TO AMEND TITLE 12 OF THE ATHENS MUNICIPAL CODE ENTITLED ‘BUILDING, UTILITY, ETC. CODES’ TO ADOPT THE INTERNATIONAL ENERGY CONSERVATION CODE, 2009 EDITION

The caption of the above-described Ordinance was read by the recording clerk. **A motion was made by Vice Mayor Perkinson, seconded by Council Member Raper, to approve Ordinance No. 1057 on First Reading.** The motion was approved by the following roll call vote:

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

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CONSIDERATION OF PROPOSED RESOLUTION AUTHORIZING TAX INCREMENT FINANCING (TIF) WITH MARATHON REALTY CORPORATION

RESOLUTION NO. 2016-22

A RESOLUTION FOR THE ATHENS CITY COUNCIL TO CONSIDER THE REQUEST OF MARATHON REALTY TAX INCREMENT FINANCING APPLICATION.

Mayor Davis introduced Louis Scudere, President of Marathon Realty Corporation. Mr. Scudere thanked the City Council for allowing him to make his presentation. He stated he was also Vice President of real estate for Food City Super Markets so he was the developer as well as the primary tenant on the project. The project he was talking about was the redevelopment of the Madison Park Shopping Center from Hill Street, Madison Avenue, Church Street and Park Street. They have made arrangements with Mr. Biddle, who owns one of the tracts, to do a long-term land lease; they are acquiring some of the property from the County and another tract from Mr. Cathey. Their plan is to take down the old shopping center, with the exception of the School Board building which will stay in place, and redevelop the area with a 52,000 square foot Food City supermarket and their fuel center, Gas N Go, with auxiliary parking with their associates located on White Street. The overall investment in the project is a little over \$12 million dollars which is composed of 2.3 million dollars in real property, 4.5 million dollars in personal property, and 3.8 million dollars in vertical construction. The TIF program is to help finance certain public infrastructure improvements that qualify. In this instance, there is 1.9 million dollars under the Code in TIF expenses. They estimated this project will create 180 new jobs which is total head count. The full-time equivalent would be roughly 100 people. Sales at this location are estimated to be roughly 26 million dollars annually. They estimated that of those 26 million dollars, 3.5 million dollars would actually be new dollars coming into the city from the county and outside the county which generate an additional \$70,200 a year in additional sales tax for the city. Of the 1.9 million dollars that is a qualified expense, they were requesting \$800,000. The money will be used for infrastructure improvements to replace stormwater, sewer, water, electrical utilities and communications that are from back in probably the 1960’s and were due to be replaced. Mr. Scudere found with other projects they have completed, that these infrastructure improvements have been used by communities to start to replace infrastructures throughout the rest of the community. It gives the community a starting point in which to begin the improvements. The \$800,000 represents only 6.65% of the overall project costs and less than 10% of the construction costs. They proposed the expense would be amortized over a twenty-year period of time. Mr. Scudere anticipated that if everything was approved, they would begin

construction in January 2017 and the store could be opened by this time next year. The storm culvert would be relocated and the utilities around that area would be replaced. Food City is a 134 store supermarket chain just shy of 90 years old. The closest store is the unit opened in Vonore a few years ago which is a 47,000 square foot building. The Athens store will have an enhanced deli/bakery, a smoker, wood fired pizza, sushi, service meats and seafood as well as a pharmacy. Mr. Scudere closed saying that they take a lot of pride being active in the community. They will support and be very active with the Downtown Business Association, the Main Street program and other community activities. After brief comments, the caption of Resolution No. 2016-22 was read by the recording clerk. **Motion was made by Council Member Pelley, seconded by Council Member Raper, to approve Resolution No. 2016-22.** Upon roll call, the resolution 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 October/November. The report was accepted as presented.

Mayor Davis read the following prepared statement:

"I am going to take this opportunity to exercise a personal privilege as Mayor and retiring member of this Athens City Council.

I want to thank the citizens of Athens for placing me in office for two terms as a member of City Council. It has been my pleasure and honor to serve as a City Council member and as Mayor. I believe I have served this community well while in office, and the City has continued in a positive direction in terms of economic growth and opportunities for the citizens of Athens and McMinn County.

Other than this broad statement, I am not going to pat myself on the back or spend time detailing the many good things that have happened in our community and those that are anticipated in the near future. Instead, I want to mention some things that are of great concern to me and should be to this community. Our leadership in this community, the people we need to listen to and follow, will be extremely important in the next few years.

Our community is a few weeks away from electing two members to our 5-person City Council. The City Council as formed after the elections in November will be selecting a new City Manager, and whoever is selected as City Manager is responsible for the hiring of all City employees. As we are all aware, our Chief of Police and HR Director are retiring December 31. The persons who sit on our City Council and serve as City Manager, Chief of Police, and the head of the City Departments will determine the direction this community takes for the next 5 years minimum.

I am not going to use this forum this evening to endorse any particular person or persons for City Council, but I am going to talk to you about some of the circumstances that are ongoing in our community in an attempt to influence the upcoming elections, and the direction our City takes in the near future.

There is what I view as a small segment of our community who believe that they and only they are capable of running our City Government. They believe the great majority of the decisions that have been made by the City Council, the City Manager, the Chief of Police, the Parks and Recreation Director, and other Department heads have been ill advised and wrong. The best description I can give you for these folks is that they offer criticism, most of it unwarranted and inaccurate, and no solutions other than, throw the rascals out. Let's get rid of the Mayor, Councilmember Perkinson, Councilmember Raper, the City Manager, and Chief Ziegler. They make known their true intentions with great anger, spreading misleading and sometimes false information by Facebook and other forms of social media. While these folks appear few in number to me, they are loud because of their methods and the fact they seek a large audience.

There are some who assist this group who try to remain anonymous. Even after dropping out of the Council race to care for my mother, the harassment continued.

I will no longer remain silent about this group and in particular Larry Eaton, the person who has been out front for the group who believe they should be running City Hall. The intent and motives of this group, and the self-appointed leaders, have become clearer over time.

While Mr. Eaton will tell you he became interested in City Government to better it and became more involved because of his belief there is corruption in our City Government, his actions show otherwise.

From my observation, Mr. Eaton became interested in City Government at or near the beginning of this year, an election year. Since my term of office was ending, and I would have to seek re-election, he has focused his efforts on me, but he has also tried to create issues for Councilmembers Perkinson and Raper. I do not believe this is a coincidence.

He uses freedom of information requests for public records and social media to attempt to cast a bad light on the public officials and City employees he wants to leave office. He has made more than 20 public record requests since the beginning of 2016.

Bo Perkinson worked for BB&T before retiring. Mr. Eaton requested business records to show the dealings between BB&T and the City of Athens for the past 10 years. He later requested payments to BB&T for the past 5 years.

With respect to City Manager Moore, he requested all documents related to his retirement plan and any bonuses. He requested documents related to the City Manager's salary, credit card use, and specific charges on the City Manager's credit card for a dinner at Merchant's Restaurant in Nashville, which I will allude to later.

He requested City staff research records from 2012 to the present for any gifts to the City Manager and Department Heads and City Council members.

With respect to me, he requested that City staff review documents and produce records since I have been on City Council for meals, hotels, travel expenses, and payroll. After obtaining this information, he posted it on Facebook.

Let me read you an e-mail I received from Mr. Eaton dated July 26 of this year sent to me at 9:45 p.m. in the evening:

Just checking in to see when you might be answering the questions I asked you in the e-mail I sent you last. I asked did you pay for alleged wine that was there and drunk by our Council. I am calling our State officials on this since I cannot get an answer from our City officials. I will not let this die until I know the whole truth. Our City is keeping the receipts from me and for what reason other than I believe our City paid for the wine that was drunk there. I again ask you to have the City Manager to give the full receipts without being altered in any way. Please make sure I can get those please.

That question was answered and receipts provided that no wine was charged to the City account but the harassing questions continued.

He also requested that City staff provide him with the City Charter requirements for recall of City Council members.

He posted on Facebook pictures of Councilmember Raper's car parking in a handicap space implying she did something wrong.

Much of the information he requests can be found on the city website. Mike Keith met with Mr. Eaton and answered all questions.

I asked Mr. Moore to calculate the time spent by various Departments within the City gathering information for Mr. Eaton, and based upon the time spent and hourly rates, the dollar amount totals \$5590.55.

I received a letter in my mailbox warning me against driving my car and had election items stolen from my residence which were on my carport. Due to a couple of instances following a Council meeting, Ms. Raper and I now have police escorts to take us to our cars.

I do not believe Mr. Eaton began using freedom of information requests and attacking me and others on Facebook on his own.

After Chief Ziegler and Rita Brown announced their retirements effective at the end of this year, Mr. Moore indicated he was considering hiring their replacements before his retirement. Councilmember Pelley has been very outspoken with his opinion that Mr. Moore does not have the legal authority to hire these replacements since he too is retiring. I asked our City Attorney for an opinion as to whether Mr. Moore has this authority. Councilmember Pelley did likewise. Mr. Trew provided City Council with his opinion in writing. His opinion letter was addressed to Council members and sent only to City Council members and Mr. Moore. Mr. Trew's opinion letter shows up on the Facebook site used by Mr. Eaton a few days later.

We had issues raised in Council meetings concerning Springbrook Country Club membership, issues within the Police Department, and criticisms of the use of State and Federal grant programs. Thereafter, the City receives freedom of information requests from Mr. Eaton on these same subject matters.

Our City Attorney notified the members of City Council that he had filed General Sessions Court lawsuits against 5-6 individuals who have over \$500.00 in unpaid downtown parking tickets. Thereafter, the City received a freedom of information request from Mr. Eaton for documents related to parking tickets for the last 3 years.

Mr. Moore announces to City Council that he has disciplined the Chief of the Fire Department. Thereafter, Mr. Eaton sends a freedom of information request for all records related to the suspension of the Fire Chief. More recently, he has requested all documents given to firefighters during the month of September regarding wages.

During recent work sessions, issues have been raised about a problem with the recording of all police radio traffic by the McMinn County E-911 Center. Mr. Moore is asked to investigate. He does so, and he receives an e-mail from a supervisor at the 911 Center detailing what occurred and the measures to prevent a similar occurrence in the future. City Manager Moore forwards this e-mail to members of City Council and City Department heads September 21, 2016 at 3:38 p.m. Councilmember Pelley forwards the e-mail he received from Mr. Moore to Mr. Eaton on the same afternoon at 5:34 p.m. I have the e-mail trail.

I share this information with you this evening not to deter citizens with a just and proper reason from seeking information from or about our City Government. If there is a legitimate reason to seek information, seek it. I am not discouraging (your right as a citizen) anyone from doing that.

I do have a problem with any person using freedom of information requests and social media to harass and intimidate public officials and attempt to influence City elections.

Harassments, threats, and false comments should not have a part in any election in Athens, especially for City Council or the selection of the Mayor. This discourages reasonable qualified candidates from running. This is a critical time in our City. We have several businesses and industries looking to locate or expand here. We have worked so hard to strategically place Athens in a positive light.

We need persons with good moral character and vision to lead our City in the right direction.

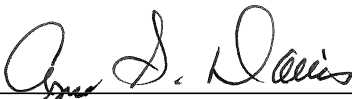
I will no longer be an elected official here in Athens soon, but I will continue to support our City and its leaders and employees, and part of that support is to make known to this community the actions of Mr. Eaton and others who appear to be self-serving and negatively upon our community.

If you truly care about a city, you will work to build it not destroy it.

Again, thank you for your support and I hope the information I have shared with you encourages the majority to not let the minority be the only voice in our community making noise.”

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ADJOURNMENT

There being no further business to come before the meeting, the meeting adjourned at 7:30 p.m.



ANN S. DAVIS, Mayor



MITCHELL B. MOORE, City Manager