

ATHENS CITY COUNCIL MINUTES OF MEETING

September 17, 2019

The Athens City Council met in regular session on Tuesday, September 17, 2019, at 6:00 p.m. with Mayor Burris presiding. The invocation was given by Council Member Lockmiller; and upon roll call, the following members were present:

Lockmiller, Pelley, Perkinson, Burris

Council Member Coker was unable to attend the meeting due to medical issues.

The following decisions were made and ordered made a part of the records of the Athens City Council.

- 1 -

APPROVAL OF MINUTES

The Minutes of the regularly scheduled meeting of August 20, 2019 were submitted and approved by unanimous consent.

- 2 -

COMMUNICATIONS AND SPECIAL PRESENTATIONS

PRESENTATION OF PROCLAMATION - SAM STEPHENS

City Manager Sumner presented a proclamation honoring Sam Stephens for his service on the Athens Historic Preservation Commission.

- 3 -

NORTH CITY SCHOOL UPDATES

Bob Owens, Supervisor of Facilities and Attendance, presented an update on activities at North City School for Principal Holly Owens, who was unable to attend the meeting.

- 4 -

ANNOUNCEMENT – CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING

City Manager Sumner announced the Government Finance Officers Association had awarded the City of Athens the GFOA Certificate of Achievement for Excellence in Financial Reporting for the fiscal year ended 2018. This marks the City's 27th consecutive year receiving this award. He stated, "The citizens of Athens can be very proud of the financial stability, recordkeeping, and the level of professionalism that our staff have in promoting their fiduciary responsibility to our taxpayers." City Manager Sumner thanked Finance Director Mike Keith, his staff, and everyone that pitches in in those efforts.

- 5 -

MISCELLANEOUS CORRESPONDENCE

Mayor Burris acknowledged receipt of an email from Brianna Hanson, Program Coordinator, regarding a phone call she received from a woman in Englewood expressing her appreciation of the City for putting together the splashpad for not only the City to enjoy but also the surrounding communities.

CONSENT AGENDA

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

- a.) Appoint John Proffitt as an Alternate on the Board of Adjustments and Appeals, term expires April 21, 2021.
- b.) Reappoint Micki Key to the Historic Preservation Commission, term expires October 1, 2024.
- c.) Appoint William Houston to the Historic Preservation Commission, term expires October 1, 2024.
- d.) Appoint Moises Contreras to fill vacancy on the Recreation Advisory Board, term expires June 30, 2021.
- e.) Reject CDBG Façade Improvement bid for 201 N. White Street at request of property owner.
- f.) Accept proposal as submitted by Quorum for the implementation of a Cloud Backup and Disaster Recovery as a Service implementation.
- g.) Accept Certification of Sales Tax Referendum dated August 20, 2019, as approved and submitted by the McMinn County Election Commission.
- h.) Approve Resolution No. 2019-24 authorizing submission of an application for the 2019-20 James L. Richardson "Driver Safety" Matching Grant.

A motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve the Consent Agenda in its entirety. The motion was approved by the following roll call vote:

AYES: Lockmiller, Pelley, Perkinson, Burris
NAYS: None
ABSENT: Coker

ORDINANCES

ORDINANCE NO. 1080 – SECOND/FINAL READING – PUBLIC HEARING

AN ORDINANCE TO AMEND THE ATHENS MUNICIPAL CODE, TITLE 9 ENTITLED 'BUSINESS, PEDDLERS, SOLICITORS, ETC.', CHAPTER 7 'BUILDING TRADESMEN', TO CLARIFY DEFINITIONS, QUALIFICATIONS, AND REVOCATION OF LICENSE.

The caption of the above-described Ordinance was read by the recording clerk. Mayor Burris 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. 1080 on Second and Final Reading.** Ordinance No. 1080 was approved by the following roll call vote:

AYES: Lockmiller, Pelley, Perkinson, Burris
NAYS: None
ABSENT: Coker

ORDINANCE NO. 1081 – 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 REZONE THE PROPERTY LOCATED AT 200 NEW ENGLEWOOD ROAD FROM B-3 (INTENSIVE BUSINESS DISTRICT) TO R-2 (MEDIUM DENSITY RESIDENTIAL) 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 Burris 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. 1081 on Second and Final Reading.** Ordinance No. 1081 was approved by the following roll call vote:

AYES: Lockmiller, Pelley, Perkinson, Burris
NAYS: None
ABSENT: Coker

- 9 -

ORDINANCE NO. 1082 – SECOND/FINAL READING – PUBLIC HEARING

AN ORDINANCE OF THE CITY OF ATHENS, TENNESSEE, PROVIDING THAT THE ATHENS MUNICIPAL CODE, TITLE 14, CHAPTER 2, SECTION 2.02 DEFINITIONS BE AMENDED; TO ADD LANGUAGE THAT DESCRIBES AN EFFICIENCY DWELLING (APARTMENT); AND PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

The caption of the above-described Ordinance was read by the recording clerk. Mayor Burris 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 Lockmiller, to approve Ordinance No. 1082 on Second and Final Reading.** Ordinance No. 1082 was approved by the following roll call vote:

AYES: Lockmiller, Pelley, Perkinson, Burris
NAYS: None
ABSENT: Coker

- 10 -

OLD BUSINESS

NONE

- 11 -

NEW BUSINESS

CONSIDERATION OF PROPOSED ORDINANCE AMENDING TITLE 9, CHAPTER 5, ENTITLED "WRECKER AND TOWING SERVICE"

ORDINANCE NO. 1083 - FIRST READING

AN ORDINANCE TO AMEND THE ATHENS MUNICIPAL CODE, TITLE 9, CHAPTER 5, REGARDING WRECKER AND TOWING SERVICE REGULATIONS.

The caption of the above-described Ordinance was read by the recording clerk. City Manager Sumner stated the existing wrecker and towing ordinance was incompatible with several items listed in the Tennessee Highway Patrol Manual and the proposed ordinance will bring the City into compliance and place the onus for inspections with the Highway Patrol. **A motion was made by Council Member Pelley, seconded by Council Member Lockmiller, to approve Ordinance No. 1083 on First Reading.** The motion was approved by the following roll call vote:

AYES: Lockmiller, Pelley, Perkinson, Burris
NAYS: None
ABSENT: Coker

- 12 -

RECOMMENDATION FROM PLANNING COMMISSION

The recording clerk advised Council that Ms. Leah Hicks had submitted to the Athens Municipal-Regional Planning Commission a rezoning request to change a recently combined parcel located on Cedar Springs Road unaddressed (700 block) parcel from R-1 Low Density Residential District to B-1 Local Business District. After considerable discussion, the Planning Commission

recommended the City Council deny the rezoning request as it believed the request would be spot zoning.

ORDINANCE NO. 1084 – FIRST READING

AN ORDINANCE TO AMEND 'THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,' SO AS TO AMEND THE OFFICIAL ZONING MAP TO REZONE THE PROPERTY LOCATED ON CEDAR SPRINGS ROAD FROM R-1 (LOW DENSITY RESIDENTIAL) TO B-1 (LOCAL BUSINESS 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. A **motion was made by Council Member Pelley, seconded by Council Member Lockmiller, to approve Ordinance No. 1084 on First Reading.** Vice Mayor Perkinson stated this item had been before the Planning Commission and the City Council. The Planning Commission had studied this issue and voted to recommend to the City Council that they deny this request. He felt this issue was important not only to the property owners but also to the integrity of the City's zoning code and had to do with spot zoning. Spot zoning can be legal or illegal. For spot zoning to be legal, it must have a justifiable reason to rezone it back to B-1. In 2013, there was a comprehensive rezoning and this property was rezoned to residential to be compatible with the surrounding neighborhood. The owners purchased the property without checking on what the zoning was for this property. Vice Mayor Perkinson said he would vote for the proposed ordinance on first reading in order to give the owner and the City another thirty (30) days to look at the property and see if they can come up with a justifiable reason to rezone the property back to B-1. A decision on this rezoning request will not only affect this property owner but will also impact the area in the future. The property owner may not own the property three years from now and the B-1 zone is not just for their use today but also the future uses allowable under a B-1 zone. Council Member Pelley also was in support of this motion. He stated that this property has been listed as a commercial and the owner has been paying taxes based on a commercial status. The owners, as well as the neighbors, consider this property commercial. In his opinion, this property should be rezoned to B-1. Council Member Lockmiller stated he did not remember this property ever being residential and did not see this property as a residential lot. If a neighboring property owner had appeared before the City Council requesting to rezone their property to B-1, he would deny that request because it was a residential house. The building on this property is not a residential home. City Manager Sumner stated this was a sticky situation that they find themselves in when they look at zoning, what the best use of the land is, and the impact on its neighbors and the community as a whole. As you look at this particular case, as the Planning Commission and the City Council should do, you are looking at a single piece of land and you must take the owner out of the picture. You must take the use into account, and you must take all of the potential uses for that property into account. A B-1 zoning allows for a multitude of uses. The question then is are all those uses ones the neighbors are in favor of and would not be construed as a detriment to their land values and to the enjoyment of their own property as residents. City Manager Sumner stated he and several others were not here for the 2013 rezoning of the area. When you are looking at a map and see one property zoned differently than all the other properties in the area, it stands out. From a zoning standpoint, there was a small commercial lot in a sea of residential lots. Common sense prevailed, at that time, and the legality of changing that from a business use, that had not been for years although it was prior, lost its grandfather status and it was converted to residential to meet the needs of the neighborhood. The property has not been taxed as residential because it has not been a residence. It is only zoned that way, so it has the potential of becoming residential. It is not going to be taxed residential until it is converted. City Manager Sumner stated common sense tells you that the building was a commercial building at one time as stated. They have to rely on the zoning, the law, and the processes that you have to abide in, so that the Council does not set a precedent or incur the likelihood of litigation against this City and its taxpayers. We have to protect the entire community. When looking at the broad spectrum of this rezoning, he felt there was a likelihood of finding case law, that they have not been able to find to date, that provides a similar or justifiable incidence that can be used in this case. We all want to get to the same place. We are trying to find a scenario so that the City and the taxpayers are protected from future litigation, so this couple can continue their business and their growth, and the neighborhood is happy with their investment in that use. If the Council votes in favor of moving this rezoning forward, then that will give this couple, the City Council, and our staff, another month to look into finding that best and proper path and we are hopeful that we will find that win-win-win

scenario. At the conclusion of the discussion, the motion was approved by the following roll call vote:

AYES:	Lockmiller, Pelley, Perkinson, Burris
NAYS:	None
ABSENT:	Coker

- 13 -

REPORTS

ATHENS CITY SCHOOLS QUARTERLY REPORT

Dr. Melanie Miller, Superintendent of the Athens City Schools, presented the City Council with her quarterly update.

- 14 -

FINANCE DEPARTMENT REPORT

Mr. Mike Keith, Finance Director, presented the Finance Department Report for the month of August 2019. The report was accepted as presented.

- 15 -

FIRE DEPARTMENT REPORT

Fire Chief Brandon Ainsworth presented the Fire Department Report for the month of August 2019. The report was accepted as presented.

- 16 -

POLICE DEPARTMENT REPORT

Deputy Chief Jason Garren presented the Police Department Report for the month of August 2019. The report was accepted as presented.

- 17 -

REQUESTS FROM CITIZENS

NONE

- 18 -

REPORT FROM THE CITY MANAGER

City Manager Sumner reviewed his monthly report including the various Parks and Recreation and Public Works projects and activities going on throughout the city.

- 19 -

ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 7:09 p.m.



C. SETH SUMNER, City Manager



CHARLES T. BURRIS, II, Mayor