

**A G E N D A**  
**ATHENS CITY COUNCIL**  
**TUESDAY, APRIL 20, 2004, 6:00 P.M.**

- I. CALL TO ORDER** – Mayor William Bo Perkinson
  
- II. PLEDGE OF ALLEGIANCE**
  
- III. INVOCATION** – Vice Mayor Proffitt
  
- IV. ROLL CALL**
  
- V. MINUTES** – March 16, 2004
  
- VI. COMMUNICATIONS FROM THE MAYOR**
  - a.) Presentation of Proclamation – TWC Lady Bulldogs Basketball Team
  - b.) Presentation of VIVID Award – Ms. D. Jacqueline Jenkins
  - c.) Miscellaneous Correspondence
  
- VII. PETITIONS AND REQUESTS**
  - a.) Requests from Audience
  
- VIII. REPORTS**
  - a.) Finance Department Report
  - \* b.) Police Department Report
  - \* c.) Fire Department Reports
    - 1. Monthly Report for March 2004
    - 2. Special Departmental Report (cost savings) by Chief Miller
  - d.) Community Development Quarterly Report
  
- IX. CONSENT AGENDA**

**X. ORDINANCES**

- \* a.) **ORDINANCE NO. 917 – SECOND/FINAL READING**  
**“AN ORDINANCE TO UPDATE THE ATHENS MUNICIPAL CODE TO REFLECT CURRENT CITY OF ATHENS POLICIES AND PROCEDURES.”**

**XI. OLD BUSINESS**

- \* a.) Recommendation from Planning Commission – Adopt Land Use & Transportation Policy Plan for 2004-2014

**XII. NEW BUSINESS**

- \* a.) Recommendation from Planning Commission – Rezoning request from B-1 to R-2, East Madison Avenue @ Fairview Road (County Road 439) – Russell Levine, Petitioner
- \* b.) Proposed submission of grants for continued parks development
  - 1.) LPRF/LWCF Grant – (\$285,500)
  2. RTP Grant – (\$100,000)
- \* c.) Proposed adoption of Private Chapter No. 92/HB 3558 as approved by the 103<sup>rd</sup> General Assembly of the State of Tennessee
- d.) Manager’s Report

**XIII. BEER BOARD**

- a.) Restaurant Beer Permit – Ruby Tuesday, 1830 Holiday Drive
- b.) Ownership change – Monterrey Mexican Restaurant, 319 S. Congress Parkway – Jose Cordero
- c.) Ownership change – Monterrey Mexican Restaurant, 2624 Decatur Pike – Jose Cordero

# ATHENS FIRE DEPARTMENT INCIDENT SUMMARY TO CITY MANAGER

MONTH  
OF

MARCH 2004

TYPE OF CALL	THIS MONTH	LAST YEAR	TYTD	LYTD
RESIDENTIAL	2	6	8	13
COMMERCIAL	3	0	3	1
INDUSTRIAL	0	0	1	0
GRASS	3	3	8	4
VEH FIRES	6	5	16	9
TRASH FIRES	0	0	3	1
VEH ACC	2	0	10	5
AUTO ALARMS	8	2	21	10
FALSE ALARMS	1	5	2	8
OTHERS	6	6	24	16
MUTUAL AID	1	0	1	0
<b>TOTAL CALLS</b>	<b>32</b>	<b>27</b>	<b>97</b>	<b>67</b>

## LOSSES

RESIDENTIAL	\$0	\$49,000	\$63,000	\$144,500
COMMERCIAL	\$100	\$0	\$100	\$400
INDUSTRIAL	\$0	\$0	\$0	\$0
VEHICLE	\$9,750	\$7,700	\$18,550	\$11,300
MISC	\$0	\$0	\$0	\$0
<b>TOTALS</b>	<b>\$9,850</b>	<b>\$56,700</b>	<b>\$81,650</b>	<b>\$156,200</b>

## FIRE PREVENTION INSPECTIONS

COMMERCIAL	11	16	32	43
INDUSTRIAL	6	11	31	28
RESIDENTIAL	9	21	42	55
<b>TOTALS</b>	<b>26</b>	<b>48</b>	<b>105</b>	<b>126</b>
VIOLATIONS	6	9	23	34
CORRECTED	5	7	17	23

## FIREFIGHTER TRAINING

FULL TIME ACADEMIC	266	271	838	657
FULL TIME PRACTICAL	165	127	440	303
VOLUNTEER ACADEMIC	14	8	28	27
VOLUNTEER PRACTICAL	34	9	52	26

## PERSONNEL

	ALLOWANCE	EMPLOYED
FULL TIME	20	19
VOLUNTEERS	25	20

**Police Department Report to City Manager  
Offense Statistics**

**Classification of Offenses**

**Offenses Reported**

<b>Part I - Crimes Against Persons</b>	<b>This Month</b>	<b>This Year</b>	<b>Last Year to Date</b>
1. Homicide	0	0	0
2. Sex Offense	0	2	3
3. Robbery	3	6	5
4. Assault	42	98	66
<b>Part II - Crime Against Property</b>			
5. Burglary	18	50	56
6. Theft	46	133	194
7. Motor Vehicle Theft	2	9	8
<b>Moving Violations</b>	465	1116	889
<b>Drugs</b>	17	45	39
<b>Arrests</b>	62	179	228

**Traffic Accident Statistics**

**Accidents**

**Injuries**

	<b>This Month</b>	<b>This Year</b>	<b>Last Year to Date</b>		<b>This Month</b>	<b>This Year</b>	<b>Last Year to Date</b>	
<b>Vehicle</b>	73	207	200		10	53	69	
<b>Pedestrian</b>	0	1	2		0	1	0	
<b>Other</b>	16	30	33		9	13	8	
<b>Priv. Prop.</b>	2	26			0	0		
<b>Total</b>	89	238	235		19	67	77	

**Fatality**

<b>This Month</b>	0
<b>This Year</b>	0
<b>Last Year</b>	0

Prepared:  
Amy B. Arnwine  
City Clerk/Records  
Clerk

Submitted:  
Charles T. Ziegler  
Chief of Police

**“AN ORDINANCE TO UPDATE THE ATHENS MUNICIPAL CODE TO REFLECT CURRENT CITY OF ATHENS POLICIES AND PROCEDURES.”**

BE IT ORDAINED BY THE CITY OF ATHENS, TENNESSEE, AS FOLLOWS:

SECTION 1. That Title 1, Chapter 3, **Section 1-301** (To be bonded) be amended by deleting the words *and city clerk* and further amend **Section 1-301** by removing the words *their offices* and inserting in lieu thereof the words *said office*.

SECTION 2. That Title 1, Chapter 3, **Section 1-302** (To keep minutes, etc.) and **Section 1-303** (To perform general clerical duties, etc.) be amended by adding the following language after city clerk: *or designee of the city manager*.

SECTION 3. That Title 5, Chapter 1, **Section 5-101** (Official depositories for city funds) be amended by deleting the wording in its entirety and substituting in lieu thereof: *Depositories for city funds include the Local Government Investment Pool administered by the State of Tennessee and any financial institution meeting the guidelines as set forth by the State of Tennessee.*

SECTION 4. That Title 7, Chapter 3, **Section 7-310** (Acceptance of buildings, etc. to be burned . . .) be amended by deleting this section in its entirety.

SECTION 5. That Title 8, Chapter 2, **Section 8-215** (Revocation of beer permits) be amended by deleting subsection (1) in its entirety and substituting new wording as follows: *(1) The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the license or permit holder or any agent, servant or employee of the permittee or licensee is guilty of violating (a) any of the provisions of this chapter; (b) any of the Municipal Codes of the City of Athens addressing the sale, manufacture, storage or distribution of beer, wine, liquor or any other alcoholic beverage; or (c) any state law regarding the sale, manufacture, storage or distribution of beer, wine, liquor or any other alcoholic beverage. The beer board, in its discretion, may revoke any beer permit issued for due cause not specified herein. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after at least ten (10) days notice to all the parties in interest. Suspension or revocation proceedings may be initiated by the city manager or by any reputable resident upon the filing of an application with the beer board requesting such action.*

SECTION 6. That Title 9, Chapter 1, **Section 9-104** (Persons exhibiting samples in motel rooms, etc., and . . .) be amended by deleting the words “first obtain a permit from the city manager” and substitute in lieu thereof: *meet the requirements as outlined in Title 9, Chapter 2 of this Code.* Further amend **Section 9-104** by deleting subsections (2), (3), (4), and (5) in their entirety.

SECTION 7. That Title 9, Chapter 3, **Section 9-302** (Prerequisites for a permit) be amended by removing the word “recorder” and substitute the words *Office of Finance*.

SECTION 8. That Title 10, Chapter 1, **Section 10-107** (Seizure and disposition of animals running at large) be amended by deleting the words in this section and substituting as follows: *Any animal or fowl found running at large in violation of this chapter may be seized by the animal control officer or by any police officer and confined in an animal shelter provided or designated by the city manager. If the owner is known, that individual shall be given notice in person, by telephone, or by mail. If the owner is not known, the animal shall be confined in the shelter for a period not less than three (3) working days to allow an owner to reclaim that animal. In order to reclaim his animal, the owner must pay an impoundment fee plus a boarding fee which is to be established by the city council. Any animal not reclaimed by its owner within three (3)*

*working days after the date of seizure shall become the property of local government authority and shall be placed for adoption in a suitable home subject to shelter adoption procedure. The unclaimed animal may be disposed of after an additional five (5) working days by veterinarian supervised euthanatization. Disposal of an animal does not relieve the owner of liability for violations, nor shall the City of Athens, or any of its agents or employees, be in any way responsible for any animal disposed of as herein stated. The City of Athens, Tennessee, and its officials shall not be responsible for any illness, disease, or death occurring to any animal confined in the city's animal shelter, as stipulated in the City of Athens Standard Operating Procedures.*

**SECTION 9.** That Title 13, Chapter 1, **Sections 13-101** (Board of health) and **13-102** (Health officer) be deleted, with the remaining sections to be renumbered as appropriate.

**SECTION 10.** That Title 15, Chapter 6, Section 15-601 (Parking) be amended by deleting paragraph two and inserting a new paragraph two as follows: *No person shall park or leave a vehicle, motorized or non-motorized, or any trailer parked on any other public street for more than twenty-four (24) hours without prior approval of the chief of police. Upon written request, the chief of police, or his/her designee, will investigate the proposed parking to ensure that the parked vehicle or trailer does not pose a traffic hazard and, upon determining that no hazard exists, may grant approval for the vehicle or trailer to be parked on the public street. In no case will permission be granted for more than seven (7) days.*

**SECTION 11.** That Title 17, Chapter 1, **Section 17-113**, subsection (1) be amended by removing the words "supervisor of the city's sanitation department" and inserting in lieu thereof the words *department of sanitation*.

**SECTION 12.** That Title 17, Chapter 1, **Section 17-114**, subsection (3) be amended by removing the word "finances" and inserting in lieu thereof the word *finance*.

**SECTION 13.** That Title 17, Chapter 1, **Section 17-116**, be amended by deleting the current language in paragraph two and substituting in lieu thereof: *Quantities of tree limbs and debris, etc., equivalent to a full trailer load (20 cu. yd.) or more shall be deposited for collection only after approval and direction of the city manager or his designee. For this extra disposal service, the applicant shall pay Thirty Dollars (\$30.00) per trailer load or fraction thereof.*

**SECTION 14.** That Title 20, Chapter 1 (City Cemeteries), be amended by correcting the listing of sections as follows:

**20-112 Administration and management.**

**20-113 Irrevocable trust agreement authorized.**

**SECTION 15.** That Title 20, Chapter 1, **Section 20-113** (Irrevocable trust agreement authorized) be amended by deleting the language "the First National Bank of McMinn County, Athens, Tennessee," and inserting in lieu thereof the language *any trustee qualified to act as fiduciary in the State of Tennessee, as approved by city council.*

**SECTION 16.** That Title 20, Chapter 2, including **title** and **sections 20-201** (Creation of department), **20-202** (Head of department), and **20-203** (Duties of head of department) be amended by deleting the words "Department of Recreation and Parks Development" and substituting in lieu thereof the words *Department of Parks and Recreation*.

**SECTION 17:** Any Ordinance, Resolution, Motion or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction; such holding will not affect any other portion of this Ordinance.

SECTION 18: BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon final passage and as provided by law.

PASSED ON FIRST READING: March 16, 2004

PASSED ON SECOND READING: \_\_\_\_\_

\_\_\_\_\_  
WILLIAM BO PERKINSON, Mayor

\_\_\_\_\_  
MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS TREW, City Attorney

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION TO ADOPT THE ATHENS LAND USE AND TRANSPORTATION POLICY PLAN 2004-2014**

WHEREAS, in accordance with Tennessee Code Annotated 13-4-201, it is the function and duty of a municipal-regional planning commission to make and to adopt a general plan for the physical development of the municipality, including areas outside of the corporate limits; and

WHEREAS, based on state law, the Athens Municipal-Regional Planning Commission has completed a study and has prepared a general plan for the purpose of guiding and accomplishing a coordinated, adjusted, efficient and economically sound means of development for the City of Athens, Tennessee; and

WHEREAS, based on the recommendation of the Athens Municipal-Regional Planning Commission, the Athens Land Use and Transportation Policy Plan 2004-2014 with accompanying maps, charts, and descriptive matter, shall best promote the health, safety, morals, order, convenience, prosperity, and welfare of the inhabitants, as well as providing efficiency and economy in the process of the development, in accordance with present and future needs and resources; and

WHEREAS, the Athens Municipal-Regional Planning Commission has prepared the Athens Land Use and Transportation Policy Plan 2004-2014, including a set of Goals, Objective's and Policies, for the purpose of guiding the future growth and development of the City and the identified growth area/planning region; and

WHEREAS, the Athens Land Use and Transportation Policy Plan shall serve as a guide and shall not take precedence over ordinances of the City of Athens.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Athens, Tennessee, meeting in regular session this 20<sup>th</sup> day of April 2004, that the Athens Land Use and Transportation Policy Plan 2004-2014 is hereby adopted with the full understanding that additional amendments shall be recommended by the Athens Municipal-Regional Planning Commission as future economic, physical, or social changes indicate the need thereof.

ON MOTION BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_, said Resolution was unanimously approved this 20<sup>th</sup> day of April 2004.

\_\_\_\_\_  
WILLIAM BO PERKINSON, MAYOR

\_\_\_\_\_  
MITCHELL B. MOORE, CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS TREW, CITY ATTORNEY

**ORDINANCE NO. \_\_\_\_\_**

**“AN ORDINANCE AMENDING ORDINANCE NO. 853 ENTITLED, ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE, DATED 1999,’ SO AS TO REZONE THAT AREA LOCATED ON EAST MADISON AVENUE, DESCRIBED IN THE BODY OF THIS ORDINANCE, FROM B-1, LOCAL BUSINESS DISTRICT, TO R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT, AND TO CHANGE THE ZONING MAP OF THE CITY OF ATHENS DATED MARCH 16, 1999, TO REFLECT AND SHOW SAID CHANGE IN ZONING MADE BY THIS ORDINANCE.”**

**BE IT ORDAINED BY THE CITY OF ATHENS, TENNESSEE AS FOLLOWS:**

SECTION 1. That Ordinance No. 853 and the Zoning Map of Athens dated March 16, 1999, identified and referred to in Section 3-020 of said Zoning Ordinance to be changed to show that the following described property be rezoned and changed from B-1 to R-2:

Beginning at a point, said point being the northwestern corner of parcel 12, of McMinn County Tax Map Number 57, said point further described as being the intersection of the southern right-of-way of L&N Railroad and the eastern right-of-way of Old Athens-Madisonville Road; thence proceeding in a meandering easterly direction following along the southern right-of-way of said L&N Railroad and along the northern property line of said parcel 12, and parcels 12.09, 12.11, and 12.12 of McMinn County Tax Map Number 57 for a distance of approximately 2,514' to a point, said point being described as being the northeastern corner of said parcel 12.12; thence, proceeding in a southerly direction following along the eastern property line of said parcel 12.12 for a distance of approximately 828' to a point, said point described as being the southeastern corner of said parcel 12.12, said point further described as being the northeastern corner of parcel 29 of McMinn County Tax Map Number 57; thence, proceeding in a westerly direction following along the southern property line of said parcel 12.12 for a distance of approximately 339' to a point, said point described as being the southwestern corner of said parcel 12.12, said point further described as being the northwestern corner of parcel 21 of McMinn County Tax Map Number 57, said point further described as lying within the northern right-of-way of County Road 439 (Fairview Road); thence, proceeding in a meandering westerly direction following along the northern right-of-way line of said County Road 439 (Fairview Road) and along the southern property line of said parcels 12.12, 12.11, and parcels 12.10, 12.09, 12.08, 12.07, 12.06, 12.05, 12.04, 12.03, 12.02, and 12.01 of McMinn County Tax Map Number 57 for a distance of approximately 1,666' to a point, said point described as being the southwestern corner of said parcel 12.01, said point further described as being the intersection of the northern right-of-way of said County Road 439 (Fairview Road) and the eastern right-of-way of said Old Athens-Madisonville Road; thence, proceeding in a northeasterly direction following along the eastern right-of-way of said Old Athens Madisonville Road and along the western property line of said parcels 12.01 and 12.00 for a distance of approximately 825'; to a point, said point described as being the point of beginning.

The Tax Map and Parcel Numbers for McMinn County were renumbered as part of the Tennessee Base Mapping Process (Geographic Information System). This ordinance shall rezone the entire area of former parcel number 15.3 of McMinn County Tax Map Number 54, as indicated on the McMinn County Tax Maps as of February 02, 1997. Attached to this ordinance is a map of the area being rezoned, entitled CR 439 Rezoning B-1 to R-2, April 2004.

SECTION 2. Any Ordinance, Resolution, Motion or parts thereof in conflict herewith are hereby repealed and superseded. If any sentence, clause, phrase or paragraph of this Ordinance is declared to be unconstitutional by any Court of competent jurisdiction, such holding will not affect any other portion of this Ordinance.

SECTION 3. BE IT FURTHER ORDAINED, that this Ordinance shall take effect as provided by law. As required by TENNESSEE CODE ANNOTATED, Section 13-7-203, Public Hearing on fifteen day's notice and the requirements of TENNESSEE CODE ANNOTATED, Section 13-7-201 through 13-7-210 have all been complied with, including the approval of all necessary agencies.

PASSED ON FIRST READING: \_\_\_\_\_

PASSED ON SECOND READING: \_\_\_\_\_

\_\_\_\_\_  
WILLIAM BO PERKINSON, MAYOR

\_\_\_\_\_  
MITCHELL B. MOORE, CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS TREW, CITY ATTORNEY

**RESOLUTION NO. \_\_\_\_\_**

**“A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION FOR LWCF/LPRF FUNDING BEING ADMINSTRATED THROUGH THE STATE OF TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION FOR CONTINUED PARKS DEVELOPMENT.”**

**WHEREAS**, the State of Tennessee has announced the availability of grant funds through the Local Parks and Recreation Fund (LPRF) or through the Land and Water Conservation Fund (LWCF); and

**WHEREAS**, the City of Athens, Tennessee, desires to make an application for said funds in the amount of \$285,500 to be used for the continued development of the city park program; and

**WHEREAS**, the City of Athens has plans to use these funds for the expansion of parking, a community playground, security measures, accessibility improvements to comply with ADA, and maintenance improvements; and

**WHEREAS**, the City of Athens is committed to matching the grant funds (\$285,500) dollar-for-dollar for a total project cost of \$571,000.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Athens, Tennessee, meeting in regular session this 20<sup>th</sup> day of April 2004, that the Mayor and City Manager are hereby authorized, empowered, and directed to submit a grant application for the purpose of securing funding as provided above.

**BE IT FURTHER RESOLVED** by the Athens City Council that this resolution shall take effect immediately from and after its passage, the welfare of the Municipality requiring it.

**ON MOTION BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_**  
\_\_\_\_\_, said Resolution was unanimously approved this 20<sup>th</sup> day of April 2004.

\_\_\_\_\_  
WILLIAM BO PERKINSON, Mayor

\_\_\_\_\_  
MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
H. CHRIS TREW, City Attorney

**RESOLUTION NO. \_\_\_\_\_**

**“A RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION THROUGH THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION FOR GRANT FUNDS FOR FURTHER DEVELOPMENT OF THE TRAIL SYSTEM AT THE REGIONAL PARK/EXPOSITION CENTER.”**

**WHEREAS**, the State of Tennessee has made available grant money from the Tennessee Recreation Trails Program (RTP) pursuant to the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21); and

**WHEREAS**, the City of Athens desires to make application for said funds in an amount of \$100,000 to be used for continued development of Athens’ trail system; and

**WHEREAS**, the City of Athens is committed to matching twenty cents on the dollar the amount as designated through the grant program for a total project cost of \$125,000.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Athens, Tennessee, meeting in regular session this 20th day of April 2004, that the Mayor and City Manager be authorized, empowered, and directed to submit the appropriate application required to secure those funds.

**ON MOTION BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_**

\_\_\_\_\_, said Resolution was unanimously approved this 20<sup>th</sup> day of April 2004.

\_\_\_\_\_  
WILLIAM BO PERKINSON, Mayor

\_\_\_\_\_  
MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS TREW, City Attorney

**RESOLUTION NO. \_\_\_\_\_**

**“A RESOLUTION APPROVING PRIVATE CHAPTER NO. 92, HOUSE OF REPRESENTATIVES BILL NO. 3558, PASSED BY THE 103<sup>RD</sup> GENERAL ASSEMBLY OF THE STATE OF TENNESSEE.”**

WHEREAS, the 103<sup>rd</sup> General Assembly for the State of Tennessee passed Private Chapter No. 92, House Bill No. 3558, which provided for certain amendments to the Charter of the City of Athens, Tennessee; and

WHEREAS, said amendments are outlined in the attached certified copy of the Act as prepared and adopted by the State of Tennessee House of Representatives on March 11, 2004; and

WHEREAS, said Resolution must be approved by a two-thirds vote of the Athens City Council and shall be forwarded to the Secretary of State for official ratification.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Athens, Tennessee, meeting in regular session this 20<sup>th</sup> day of April 2004, that Private Chapter No. 92 of the Private Acts of 2004 be hereby ratified and approved.

**ON MOTION BY \_\_\_\_\_, SECONDED BY \_\_\_\_\_**

\_\_\_\_\_, said Resolution was unanimously approved this 20<sup>th</sup> day of April, 2004.

\_\_\_\_\_  
WILLIAM BO PERKINSON, Mayor

\_\_\_\_\_  
MITCHELL B. MOORE, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
CHRIS TREW, City Attorney