

MINUTES OF MEETING, ATHENS CITY COUNCIL, OCTOBER 19, 2004

The Athens City Council met in regular session on Tuesday, October 19, 2004, at 6:00 P.M. with Mayor Perkinson presiding. The invocation was given by Council Member Myers; and upon roll call, the following members were present:

Myers, Pelley, Perkinson, Proffitt, Witt

City Manager Moore was absent due to his attendance at the International City Management Convention in San Diego this week.

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 held on September 21, 2004, were submitted. Upon motion by Council Member Pelley, seconded by Council Member Witt, said Minutes were unanimously approved.

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COMMUNICATIONS FROM THE MAYOR

PRESENTATION OF VIVID AWARD

Vice Mayor Proffitt presented the *Very Important Volunteer Individual Award* for October 2004 to the Davidson Dental Center for their assistance in providing dental exams and procedures prior to the deployment of the 278th Armored Cavalry Regiment. Dr. David Davidson and staff members were in attendance to receive this award.

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SPECIAL RECOGNITION OF COUNCIL MEMBER WITT

Mayor Perkinson stated this meeting is very significant in that the City of Athens along with the Athens City Council is celebrating Council Member Burkett Witt's 33 years of service. It was noted that Council Member Witt has continuously served as a member of the City Council since July 1971 and has made a decision not to run for re-election on November 2. Mayor Perkinson described Athens *as a community that Council Member Witt loves; a community that is a much better place because of Burkett Witt and because of his service.* As a part of the celebration, Mayor Perkinson acknowledged and introduced special guests including former mayors Chuck Redfern, Basil Turbyfill of Danville, KY, David Sullins, Harold "Prof" Powers, and Margaret Mahery. The Mayor also acknowledged receipt of a letter and well wishes from former mayor William (Bill) Brakebill who could not attend due to a scheduling conflict. Each former mayor in attendance personally commended Council Member Witt's dedication and commitment to this community and wished him well in his retirement from the City Council. Also, their remarks voiced significant projects, which were completed or began during Council Member Witt's tenure. Some of those projects included the construction/development of the

YMCA, Senior Citizens Center, Northridge Industrial Park, McMinn County (I-75) Industrial Park, Veterans Park (formerly Sunset Park), and Athens Regional Park. As the celebration continued, Mayor Perkinson welcomed several members of Council Member Witt's family. Each family member was introduced by Gwen McCowan (Council Member Witt's daughter), who shared several humorous and loving stories about her father. Several congratulatory letters were read from former mayor Turbyfill, former city manager Marvin Bolinger, and United States Senator Lamar Alexander. Other special presentations included: a letter/certificate/United States Flag (that flew over the Capitol) from Congressman Duncan; two plaques in recognition of outstanding service from the employees of the City of Athens and the Athens Police Department; and a commemorative notebook highlighting Council Member Witt's 33 years of service.

At the conclusion of the remarks from the audience and staff members, Mayor Perkinson presented the following resolution, which has been printed in its entirety in an effort to acknowledge the outstanding contributions and leadership of Council Member Witt:

RESOLUTION NO. 2004-53

“A RESOLUTION RECOGNIZING AND COMMENDING BURKETT L. WITT FOR HIS DEDICATION AND PUBLIC CONTRIBUTION TO THE CITY OF ATHENS AND THE SURROUNDING COMMUNITY.”

WHEREAS, Burkett L. Witt, a lifelong resident and successful business owner and entrepreneur in Athens, Tennessee, was elected to the City Council on June 28, 1971; and

WHEREAS, the citizens of Athens have shown their confidence and appreciation to **Burkett L. Witt** through his re-election for an additional seven consecutive terms on the Athens City Council; and

WHEREAS, during his 33 plus years of service (July 1971 through November 2004), **Burkett L. Witt** has given unselfishly of his time, knowledge, and efforts for the betterment of the Government of the City of Athens, Tennessee; and

WHEREAS, Burkett L. Witt served with dignity as *Mayor* from *July 1983 to July 1985* and as *Vice Mayor* from *July 1991 to July 1993*; and

WHEREAS, Burkett L. Witt has served with distinction as Council's representative on the Athens Utilities Board for many years; and

WHEREAS, Burkett L. Witt is an inspiration to all citizens, both young and old, who have witnessed his desire and commitment to serve God, to serve his family, and to serve his fellowman.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Athens, Tennessee, meeting in regular session this 19th day of October 2004, that **Burkett L. Witt** is hereby *congratulated* and *commended* for his distinguished service as a member of the Athens City Council, which spans a period of three decades of exceptional growth and prosperity within the community.

BE IT FURTHER RESOLVED that this resolution be made a part of the official records of the Athens City Council and a copy be presented to **Council Member Burkett Witt** as a token of this Council's respect, admiration, and gratitude for his tremendous leadership and contributions to the progress of this community and to the welfare of all Athenians.

ON MOTION BY Council Member Myers, **SECONDED BY** Vice Mayor Proffitt, said Resolution was unanimously approved this 19th day of October 2004.

Upon approval of the resolution, each council member voiced his personal congratulatory remarks to Council Member Witt. Council Member Witt took the podium to address the council members, city staff, special guests, family members, and citizens of Athens. He began by saying, "Love is action. If you love, you can't hide it. You will do some good for somebody along the way." After other comments, he expressed his love and appreciation for everybody and for the whole City of Athens. In closing, he pledged his support of City Council and indicated his desire to remain active in city government.

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PETITIONS AND REQUESTS

AUDIENCE

Mayor Perkinson opened the meeting for petitions and requests from the audience. Mr. Randy Ayres, a local attorney and citizen of Athens, addressed the City Council relative to Ordinance No. 921 to be presented on second/final reading later in the meeting. Mr. Ayres questioned the legality of the passage of Ordinance No. 921, noting it has been amended since its first reading in that signs/billboards have been prohibited in the P-1 (college/professional) zoning district. (Prohibited zones established by the first reading were R-E, R-1, R-2, R-3, R-4, B-1, B-3 and M-1.) It was Mr. Ayres' contention that it would be the proper procedure to refer the amended ordinance back to the Athens Regional Planning Commission for its review/vote prior to further consideration by City Council. Second, he did not feel that the 15-day publication notice was adequate because it did not address the P-1 restriction. In response, three of the council members who attended the work session on October 11 indicated that the City Manager confirmed the amendment could be added and included in the second reading of Ordinance No. 921. There was also some discussion about the need to refer the amended ordinance back to Planning Commission. However, it was felt by the City Council that would not be necessary since the ARPC was unable to reach a consensus and offer a recommendation relative to minimum distance requirements between billboards. Lastly, Mr. Ayres urged the Council to check with City Attorney Trew relative to the proper wording of the ordinance as it relates to "radius" and "lineal feet." He indicated these words sometimes have different meanings which can change the intention of the ordinance. Mayor Perkinson and council members expressed appreciation to Mr. Ayres for his comments and concern.

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REPORTS

FINANCE DEPARTMENT REPORT

Mr. Mike Keith presented the Finance Department Report for the month of September 2004. The report was accepted as presented.

POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of September 2004. The report was accepted as presented.

FIRE DEPARTMENT REPORT

Chief Bob Miller presented the Fire Department Report for the month of September 2004. The report was accepted as presented.

COMMUNITY DEVELOPMENT QUARTERLY REPORT

Mr. Harold Hunter, Community Development Director, presented the Building Permit Quarterly Report for the City of Athens. For the quarter ending September 2004, he reported 166 permits issued, with valuation fees estimated at \$11,855,522. After further comments, the report was accepted as presented.

CONSENT AGENDA

Upon review of the Consent Agenda, Council Member Pelley requested that Resolution No. 2004-56 (*resolution authorizing contractual agreement with Johnson Architecture, Inc. of Knoxville, TN to design and develop construction drawings for the community playground, parking lot and ADA ramps at the Athens Regional Park*) and Resolution No. 2004-57 (*resolution authorizing contractual agreement with Johnson Architecture, Inc. of Knoxville, TN to design and develop construction drawings for Phase Two of the Southeast TN Trade and Conference Center*) be removed and be voted on separately under New Business. Upon unanimous consent by council members, Mayor Perkinson read an amended Consent Agenda as follows:

- 1.) Approve ***Street Paving List*** for FY 2004/05 @ estimated costs of \$163,189.56;
- 2.) Approve ***Sidewalk Replacement List*** for FY 2004/05 @ estimated costs of \$23,002.36;
- 3.) Approve ***Resolution No. 2004-54*** authorizing the extension of a contract with Bright and Shine Cleaning and Maintenance for janitorial services through August 31, 2005;
- 4.) Approve ***Resolution No. 2004-55*** to enter into a contract with The Potting Shed of Athens, Tennessee, for downtown landscaping/maintenance through October 31, 2005;

- 5.) Approve **Resolution No. 2004-58** to enter into a contract with Johnson Architecture, Inc. of Knoxville, Tennessee, to design/develop construction drawings for the extension of the walking trail at Athens Regional Park;
- 6.) Approve **Resolution No. 2004-59** to enter into a contract with Johnson Architecture, Inc. of Knoxville, Tennessee, to design/develop construction drawings for a commemorative plaza at Cook Park.

On motion by Council Member Witt, seconded by Council Member Pelley, the amended Consent Agenda was unanimously approved by voice vote.

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ORDINANCES

ORDINANCE NO. 921 – SECOND/FINAL READING/PUBLIC HEARING

“AN ORDINANCE TO AMEND ORDINANCE NO. 914 ENTITLED ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND CHAPTER 3, ZONING DISTRICTS, MORE SPECIFICALLY THE PROFESSIONAL DISTRICT (P-1) AND CHAPTER 4, SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS, MORE SPECIFICALLY SECTION 4.12 SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF ATHENS, TENNESSEE.”

After reading the caption of the above-described Ordinance, Mayor Perkinson opened the Public Hearing on Ordinance No. 921. The Mayor acknowledged the previous remarks made by Mr. Ayres earlier in the meeting. There being no other comments from the audience, the Public Hearing was closed. Motion was made by Council Member Pelley, seconded by Council Member Witt, to approve Ordinance No. 921 on Second and Final Reading. There was considerable discussion relative to the legality of the passage of this ordinance on second reading. In an effort to comply with the City Charter, Council Member Myers expressed his concern that the amended ordinance should be read during two separate readings and indicated he did not support the ordinance on its first reading and would not support it on its second reading. Vice Mayor Proffitt questioned why billboards are being excluded from the B-3 (downtown area) and P-1 (college/professional) zones. In response, Council Member Pelley stated that signs/billboards are not conducive to current restoration efforts. Also, he noted the restriction of these zones would further reduce the number of signs/billboards in the City. In an informal survey of Decatur Pike and Congress Parkway, Vice Mayor Proffitt noted at least 30 blank billboards, indicating one out of every three (billboards) is not being used. While asking the questions *does it benefit our citizens* or *does it add value to the city*, it was the Vice Mayor’s contention that an increase in the number of billboards throughout the city does not carry out the wishes of the citizens of Athens. Additionally, in response to an earlier comment that billboards benefit local business, Vice Mayor Proffitt noted that in some cases, local billboards are subject to advertise businesses in other communities, resulting in loss of revenues to local businesses. Vice Mayor Proffitt further questioned the possibility of billboards on non-state rights-of-way, such as Cedar Springs Road. After several comments, it was agreed that billboards were unlikely to be constructed in low volume traffic areas; however, it was noted that this ordinance would not restrict such an occurrence. Based on that information and the possibility that traffic patterns throughout the city are subject to change, a motion was made by Vice Mayor Proffitt to amend Ordinance No. 921 so that it would apply only to Decatur Pike and Congress Parkway.

The motion died for lack of a second. After additional comments, Mayor Perkinson voiced support of the ordinance in that the reduction of the minimum distance requirements between billboards (from 3,500 to 2,000 LF) strikes a favorable balance as the City of Athens strives for growth and quality of life. However, the Mayor continued to express concern over earlier remarks relative to the legality of the amended ordinance being passed on second and final reading. There was some consideration given to recessing the meeting in an effort to contact the city attorney. However, based on legal ramifications of the severability clause contained in the ordinance, Mr. Ayres made a suggestion to defeat Ordinance No. 921 on second reading and if Council so desires, present a new ordinance with the P-1 zone included on first reading. After continued comments and discussion, there was a unanimous vote to call for the question to consider Ordinance No. 921 on second and final reading. The following roll call is recorded:

AYES: None
NAYS: Myers, Pelley, Proffitt, Witt, Perkinson
ABSENT: None

Based on the above roll call, Mayor Perkinson announced that Ordinance No. 921 was unanimously defeated on second reading and presented for consideration a new ordinance (No. 923) by reading the following caption on first reading:

“AN ORDINANCE TO AMEND ORDINANCE NO. 914 ENTITLED ‘THE ZONING ORDINANCE OF THE CITY OF ATHENS, TENNESSEE,’ SO AS TO AMEND CHAPTER 3, ZONING DISTRICTS, MORE SPECIFICALLY THE PROFESSIONAL DISTRICT (P-1) AND CHAPTER 4, SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS, MORE SPECIFICALLY SECTION 4.12 SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF ATHENS, TENNESSEE.”

Motion was made by Council Member Pelley, seconded by Council Member Witt, to approve Ordinance No. 923 on First Reading, and upon roll call, Ordinance No. 923 was approved by the following vote:

AYES: Pelley, Witt, Perkinson
NAYS: Myers, Proffitt
ABSENT: None

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ORDINANCE NO. 922 – SECOND/FINAL READING/PUBLIC HEARING

“AN ORDINANCE AMENDING TITLE 14 ENTITLED ‘ZONING AND LAND USE CONTROL’ BY AMENDING CHAPTER 5 TO INCLUDE A STORMWATER MANAGEMENT ORDINANCE FOR THE CITY OF ATHENS.”

After reading the caption of the above-described Ordinance, Mayor Perkinson opened the Public Hearing on Ordinance No. 922. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. Motion was made by Vice Mayor Proffitt, seconded by Council Member Myers, to approve Ordinance No. 922 on Second and Final Reading, and upon roll call, Ordinance No. 922 was approved by the following vote:

AYES: Myers, Pelley, Proffitt, Witt, Perkinson
NAYS: None
ABSENT: None

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NEW BUSINESS

As noted above, resolution numbers 2004-56 and 2004-57 were pulled from the Consent Agenda at the request of Council Member Pelley and are presented as follows:

RESOLUTION NO. 2004-56

“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACTUAL AGREEMENT WITH JOHNSON ARCHITECTURE, INC. OF KNOXVILLE, TN TO DESIGN AND DEVELOP CONSTRUCTION DRAWINGS FOR THE COMMUNITY PLAYGROUND, PARKING LOT AND ADA RAMPS AT THE ATHENS REGIONAL PARK.”

Mayor Perkinson read the caption of Resolution No. 2004-56. Motion was made by Council Member Myers, seconded by Vice Mayor Proffitt, to approve Resolution No. 2004-56, and upon voice vote, the Resolution was approved, with one nay vote recorded by Council Member Pelley.

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RESOLUTION NO. 2004-57

“A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACTUAL AGREEMENT WITH JOHNSON ARCHITECTURE, INC. OF KNOXVILLE, TN TO DESIGN AND DEVELOP CONSTRUCTION DRAWINGS FOR PHASE TWO OF THE SOUTHEAST TN TRADE AND CONFERENCE CENTER.”

Mayor Perkinson read the caption of Resolution No. 2004-57. Motion was made by Council Member Myers, seconded by Vice Mayor Proffitt, to approve Resolution No. 2004-57, and upon voice vote, the Resolution was approved, with one nay vote recorded by Council Member Pelley.

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MANAGER'S REPORT

In the absence of City Manager Moore, Mayor Perkinson acknowledged receipt of the Manager's Report and suggested that council members review and refer any questions to the City Manager upon his return. Council Member Pelley acknowledged that Ms. Becky Banks, DPA Reporter, will no longer be covering City Council Meetings. It was noted that she has accepted a job in Kentucky and will be leaving Athens as of November 3. The Council commended her accuracy and diligence in reporting matters concerning the City of Athens.

ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 8:35 p.m.

WILLIAM BO PERKINSON, Mayor

MITCHELL B. MOORE, City Manager