

May 23, 2016

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

The City Council of the City of Athens, Alabama met in regular session at the Athens Municipal Building, 200 Hobbs Street West in the said City on May 23, 2016, at 5:30 p.m. The meeting was called to order by Councilman Wayne Harper, President of the Council. Upon roll call the following were found to be present: Councilmember Chris Seibert, Joseph Cannon and Wayne Harper. Councilmember Harold Wales was absent. Mayor Marks led the Pledge of Allegiance. Annette Barnes, City Clerk, was present and recorded the minutes of the meeting. Joseph Cannon offered the invocation. The Chairperson stated that a quorum was present and that the meeting was open for transaction of business.

The Chairperson stated that the Minutes of the May 9, 2016 City Council Meeting had been submitted for approval. Councilman Cannon moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Seibert and was unanimously carried. The Chairperson stated that the Minutes of the May 9, 2016 City Council Work Session Meeting had been submitted for approval. Councilman Cannon moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Seibert and was unanimously carried.

A public hearing was held to hear comments on (CDBG) Community Development Block Grant funding. Holly Hollman, City Grant Coordinator, explained that the public hearing being held at tonight's meeting is to hear public comment on the City's proposed application for a Community Development Block Grant to help fund drainage improvements in the area around Athens Elementary School.

No one spoke in opposition to the proposed grant application.

The public hearing was closed.

A public hearing was held to hear comments on vacating a portion of Malone Street. John Plunk with the Athens Nursing Home spoke in support of vacating Malone Street to facilitate the expansion of the current nursing home facility. The proposed three million dollar expansion, to be constructed by Northport Health Services, should provide for an addition 25 to 30 new jobs according to Mr. Plunk.

No one spoke in opposition to vacating a portion of Malone Street.

The public hearing was closed.

**Councilman Cannon introduced the following resolution:**

**RESOLUTION NUMBER 2016-1472**

**A RESOLUTION VACATING A PORTION OF MALONE STREET,  
AND RELATING TO AN EXTENSION OF STRANGE STREET**

**WHEREAS**, this Resolution relates to that portion of Malone Street located in the city of Athens, Alabama, that runs between Market Street and Washington Street, and is more specifically described as follows:

A TRACT OF LAND LYING IN SECTION 08, TOWNSHIP 03 SOUTH, RANGE 04 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN EXISTING RAILROAD SPIKE AT THE NORTHEAST CORNER OF LOT 6 OF BLOCK 66 OF THE 1914 MAP OF ATHENS AS RECORDED IN PLAT BOOK "A" PAGE 16 IN THE OFFICE OF THE JUDGE OF PROBATE OF LIMESTONE COUNTY, THENCE SOUTH 87 DEGREETS 44 MINUTES 27 SECONDS EAST ALONG THE SOUTH RIGHT OF WAY OF MARKET STREET A DISTANCE OF 178.00 FEET TO A POINT, SAID POINT BEING THE POINT OF TRUE BEGINNING OF THE TRACT HEREIN DESCRIBED

THENCE FROM THE POINT OF TRUE BEGINNING CONTINUE ALONG THE SAID SOUTH RIGHT OF WAY OF MARKET STREET SOUTH 87 DEGREES 23 MINUTES 27 SECONDS EAST A DISTANCE OF 50.01 FEET TO A POINT,

THENCE LEAVING THE SAID SOUTH RIGHT OF WAY OF MARKET STREET SOUTH 00 DEGREES 30 MINUTES 28 SECONDS WEST A DISTANCE OF 445.85 FEET TO AN A POINT ON THE NORTH RIGHT OF WAY OF WEST WASHINGTON STREET,

THENCE SOUTH 71 DEGREES 06 MINUTES 00 SECONDS WEST A DISTANCE OF 53.01 FEET TO A POINT,

THENCE LEAVING THE NORTH RIGHT OF WAY OF WEST WASHINGTON STREET NORTH 00 DEGREES 30 MINUTES 28 SECONDS EAST A DISTANCE OF 464.43 FEET TO THE POINT OF TRUE BEGINNING AND CONTAINING 0.52 ACRES, MORE OR LESS.

(herein referred to as the "Public Way");

**WHEREAS**, upon a request by one or more of the owners of the properties that abut the Public Way, the City of Athens proposes to vacate the Public Way;

**WHEREAS**, Maund Family I, LLC ("Maund") has proposed to dedicate a certain corridor of land, located to the east of the Public Way, as a substitute for the Public Way, and the Planning Commission of the City of Athens, at its meeting on October 20, 2015, has endorsed the vacation of the Public Way and the opening of a new public street on the newly dedicated corridor of land, to be deemed an extension of Strange Street (the "Strange Street Extension");

**WHEREAS**, Maund and its lessee, Athens Health & Rehabilitation, LLC ("AHR"), are engaged in a project involving the construction of a new health care facility on certain property abutting the Public Way and the Strange Street Extension (the "Project"), and the Project is the subject of a plat proceeding before the Planning Commission of the City of Athens;

**WHEREAS**, on April 11, 2016, this City Council called for a May 23, 2016 public hearing to consider the proposed vacation of the Public Way;

**WHEREAS**, the City Council has conducted the public hearing on May 23, 2016;

**WHEREAS**, the City Council has determined that it is in the interest of the public that the Public Way should be vacated;

**WHEREAS**, AHR proposes to construct a roadway, meeting the specifications of the City for public roadways, on the Strange Street Extension, in such a manner that AHR will obtain final plat approval with respect to such roadway and its Project;

**WHEREAS**, Maund and Athens Nursing Home, Inc. are the owners of all lots or parcels of land that abut the Public Way, and AHR is a lessee of Athens Nursing Home, Inc.;

**WHEREAS**, pursuant to Title 23, Chapter 4 of the *Code of Alabama*, the public and abutting owner have been notified of the proposed vacation of the Public Way;

**WHEREAS**, the vacation of the Public Way will not cause persons to be cut off from access over some other reasonable and convenient way;

**WHEREAS**, Athens Utilities maintains electrical lines, water lines, and sewer lines within the Public Way, but the vacation of the Public Way, as explained herein, will not prevent Athens Utilities from accessing, maintaining, extending, and enlarging those lines to the same extent as if such vacation had not occurred;

**WHEREAS**, the vacation of the Public Way will not deprive other property owners of any right they may have to convenient and reasonable means of egress and ingress to and from their property; and

**WHEREAS**, the City Council finds that this Resolution serves a valuable public purpose, and will confer a significant public benefit on the citizens of the City.

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** while in regular session on May 23, 2016 at 5:30 p.m., as follows:

1. The Public Way is hereby vacated upon the occurrence of all of the conditions set forth in Section 2, below, and upon such vacation, the City Council will divest itself of all public rights and liabilities therein in accordance with § 23-4-2(b) of the *Code of Alabama*.

2. Upon (i) Maund's irrevocable dedication of the new Strange Street Extension as a public way to the City of Athens, in a manner that is satisfactory to the Mayor; (ii) AHR's posting of performance and payment

bonds (in amounts and with approved sureties that are acceptable to the Mayor) in favor of the City of Athens, fully guaranteeing AHR's completion and construction of the new Strange Street, in a manner that meets all City specifications such the Project receives final plat approval within 2 years of the passage of this Resolution (and the full payment of all suppliers and materialmen); and (iii) payment by AHR of the City's administrative and legal costs related to the vacation of the Public Way as determined by the City Clerk, the City Clerk shall cause a copy of this Resolution to be filed with the Probate Court of Limestone County. Such filing shall operate as a declaration of the governing body's vacation and shall divest all public rights and liabilities, including any rights which may have been acquired by prescription, in that part of the Public Way vacated.

3. Title and all public rights in the Public Way shall vest in the abutting owners, Maund and Athens Nursing Home, Inc., pursuant to law.

4. However, notwithstanding anything herein to the contrary, entities (such as the City by and through Athens Utilities) with utility lines, equipment, or facilities in place at the time of vacation, shall have the right to continue to access, maintain, extend, and enlarge their lines, equipment, and facilities to the same extent as if the vacation of the Public Way had not occurred. Moreover, such entities may continue to move across and along the vacated area to reach their lines, equipment, and facilities for the above purposes as if the vacation had not occurred.

5. The City Clerk shall cause notice of this action to be published once in the *Athens News Courier* no later than 14 days after the adoption of this Resolution.

ADOPTED this the 23rd day of May, 2016.

/s/ Wayne Harper  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ William R. Marks  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ Annette Barnes  
CITY CLERK, CITY OF ATHENS, ALABAMA

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA )  
LIMESTONE COUNTY )

I, Annette Barnes, City Clerk of the City of Athens, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly adopted by the City Council of the City of Athens, Alabama, on the 23rd day of May, 2016.

Witness my hand and seal of office this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Annette Barnes, City Clerk

Councilmember Seibert moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Cannon, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Cannon and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Cannon thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Seibert and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Cannon and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

A public hearing was held to hear comments on a new wireless telecommunications facility located at 942 East Sanderfer Road. David Amit with the Center for Municipal Solutions (CMS) and Andy Rotenstreich, an attorney representing Verizon Wireless spoke in support of the City granting a special use permit for the construction of the new tower. They offered to answer any questions the Council or others might have regarding the proposed tower.

Wendell Houston, Cloverleaf Drive, Athens, addressed the Council to oppose the construction of the cell tower which is located near his neighborhood citing concerns about the increased danger of lightning created by the location of the tower near residences. Mr. Rotenstreich addressed Mr. Houston's concern by stating that the placement of a tower near residential areas actually decreased the damage to homes due to the construction of lightning rods on the tower to ground any lightning strikes.

The public hearing was closed.

**Councilman Seibert introduced the following resolution:**

**RESOLUTION NUMBER 2016-1473**

WHEREAS, Verizon Wireless has requested to construct a new wireless telecommunications facility to include a 110' monopole tower to be located at City of Athens Wastewater Treatment facility, 942 East Sanderfer Road, Athens, AL to provide enhanced wireless services essentially within the corporate limits of the City of Athens;

WHEREAS, Verizon Wireless has complied with the City's Ordinance No. 1999-1320 and has demonstrated the need for the a wireless facility to deliver consistently reliable services in the identified area, and;

WHEREAS, both the City and Verizon Wireless customers in Athens, AL will benefit from improved service; and;

WHEREAS, the City's consultant, The Center for Municipal Solutions (CMS), recommends the granting of a conditional Special Use Permit for the new wireless telecommunications facility located at 942 East Sanderfer Road, Athens, AL, which consists of a 110' ft. monopole tower;

THEREFORE, BE IT RESOLVED by the City Council of the City of Athens, Alabama that Verizon Wireless is hereby granted a Special Use Permit to construct a new wireless telecommunications facility located at

942 East Sanderfer Road, Athens, AL. As recommended by CMS, the Special Use Permit is subject to compliance with the following conditions prior to the issuance of said permit and/or a Certificate of Completion:

1. Prior to the issuance of the building permit, Verizon must provide a Certified Structural Analysis completed in accordance with ANSI/TIA-222-G Standard for the proposed tower.
2. Prior to the issuance of the building permit, Verizon must provide the Certified Foundation Design including calculations of the proposed tower.
3. To prevent warehousing of permits or authorizations and to assure the best service to the City's residents as expeditiously as possible, the facility must be built, activated and be providing service *no later than one hundred twenty (120) days after the issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the City.* Verizon Wireless may petition the City of an extension of this for good cause shown, but the decision whether or not to grant the extension shall exclusively be the prerogative of the City.
4. Verizon Wireless must provide contractor information with a construction schedule to the City and to CMS prior to the issuance of the Building Permit. The contractor must notify the City's consultant for all inspections.
5. At the completion of construction, the Applicant must notify the City's consultant and provide proof that all inspections have been satisfactorily completed and the project is ready for a final on-site inspection. Upon passing the final inspection, a recommendation to issue a Certificate of Occupancy shall be made.
6. Verizon Wireless shall not be permitted to actually provide service commercially until the Certificate of Occupancy or its functional equivalent is issued or risk forfeiting its Permit.
7. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.
8. A Certificate of Occupancy for the work permitted under this permit shall be a prerequisite for any future work by Verizon at this facility.

ADOPTED this 23rd day of May, 2016

/s/ Wayne Harper  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ William R. Marks  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ Annette Barnes  
CITY CLERK, CITY OF ATHENS, ALABAMA

The motion was seconded by Councilman Cannon and was unanimously carried.

**Councilman Cannon introduced the following resolution:**

#### RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve the travel/education expenses for the Utilities in the total amount of \$327.67.

Mason Matthews	APGA Governmental Relations Conference Operations & Safety Committee Meeting Alexandria, VA May 1 – 3, 2016	\$327.67
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The motion was seconded by Councilman Seibert and was unanimously carried.

**Councilman Seibert introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to change the normally scheduled City Council Meeting on Monday, June 13, 2016 to Monday, June 6, 2013.

The motion was seconded by Councilman Cannon and was unanimously carried.

**Councilman Cannon introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to re-appoint Wayne Kuykendall to the Historic Preservation Commission for a three year term ending May 31, 2019.

The motion was seconded by Councilman Seibert and was unanimously carried.

**Councilman Seibert introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to re-appoint Mac Martin to the Historic Preservation Commission for a three year term ending May 31, 2019.

The motion was seconded by Councilman Cannon and was unanimously carried.

**Councilman Cannon introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to authorize the Utilities General manager, contingent upon final FY 17 budget approval, to award contracts for FY 2017 Line Clearance and Tree Maintenance as follows:

<b>Company</b>	<b>Circuit</b>	<b>Bid Price</b>
W. A. Kendall	French Mill 214	\$33,720.00
	French Mill 234	\$62,524.00
	French Mill 244	\$33,600.00
Lewis Tree Service	French Mill 224	\$99,723.00
	Greenbrier 224	\$113,675.00
	Greenbrier 254	\$65,444.00
	Peach Orchard 214	\$185,240.00
	Peach Orchard 234	\$107,993.00
	Peach Orchard 264	\$109,752.00
	Poplar Creek 264	\$100,909.00
South Limestone 264	\$61,144.00	
Trees, Inc.	Greenbrier 264	\$84,577.05
	Peach Orchard 244	\$169,359.73
<b>Total</b>		<b>\$1,227,660.78</b>

The motion was seconded by Councilman Seibert and was unanimously carried.

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There being no further business to come before the meeting, the same was, upon motion by Councilman Seibert and second by Councilman Cannon, duly and properly adjourned.

/s/ Wayne Harper  
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ Annette Barnes  
CITY CLERK