

August 27, 2018

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 August 27, 2018, at 5:30 p.m. The meeting was called to order by Councilman Chris Seibert, President of the Council. Upon roll call, the following were found to be present: Councilmembers Wayne Harper, Harold Wales, Chris Seibert, Joseph Cannon and Frank Travis. Mayor Marks led the Pledge of Allegiance. Annette Barnes, City Clerk, was present and recorded the minutes of the meeting. Wayne Harper 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 August 13, 2018 City Council Meeting had been submitted for approval. Councilman Wales moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Cannon and was unanimously carried. The Chairperson stated that the Minutes of the August 13, 2018 City Council Work Session Meeting had been submitted for approval. Councilman Wales moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Cannon and was unanimously carried.

At this meeting on August 27<sup>th</sup>, the City Council is presented with and has received an application by Athens Land Company proposing to rezone certain property located on Lindsay Lane South (north of Whitfield Colony Subdivision). It has also received a proposed master development plan relating to the same property. It has also received a recommendation from the Athens Planning Commission to approve both of them.

Related thereto, the next item on the agenda concerned a public hearing to be held concerning an application by Athens Land Company proposing to rezone certain property located on Lindsay Lane South (north of Whitfield Colony Subdivision) from a B-2 General Business District to an R-2 Multifamily District.

Council President Seibert called the public hearing to order.

He stated that due to the interest in the proposed rezoning and the large number of people in attendance, the hearing would begin with an overview of the zoning process by City Attorney, Shane Black, followed by a review of the City's future land use and development plan by City Public Works Director, James Rich. He stated the hearing would then proceed with a presentation by the developer and his representatives and would conclude with comments from the general public.

City Attorney, Shane Black, then reviewed the City's zoning process. He stated the City's zoning map sets forth the kinds of uses allowed (residential, commercial, industrial, etc.). He explained that if a property owner wishes to use a parcel of property for a different use than for which it is currently zoned, the property owner must make application to amend the zoning ordinance (and its map). That request is reviewed by the City of Athens Planning Commission, after a public hearing is held, for its recommendation. Once the planning commission makes its recommendation (whether for or against), the rezoning request, along with the planning commission's recommendation, is presented to the City Council for its consideration. The City Council holds a public hearing prior to any passage of an amendment to the zoning ordinance.

City Public Works Director, James Rich, then reviewed the City's Future Land Use and Development Plan (LUDP) as it relates to the proposed rezoning request stating that the request does follow what was set forth in that LUDP adopted in 2013. He stated that the property is currently zoned as B-2 "General Business District" and he cited some of the permitted uses under a B-2 district. The request is to rezone the property from a B-2 to an R-2 Multifamily District which would allow for the construction of "Class A" luxury apartments. He also stated that prior to the adoption of the current zoning ordinance in 2017, the subject property was permitted for industrial use.

Taz Morell of Morell Engineering then spoke on behalf of Athens Land Company, which has a contract to sell the subject property to J & J Development. He then described the apartments that J & J Development is proposing as "Class A" luxury apartments which will be similar to those built in the Village of Providence in Huntsville,

Alabama. He stated the project is planned in two phases of 240 apartments each for a maximum total of 480 apartments. He then presented a power point presentation of the proposed development. He stated the development will include the following amenities: 2 pools, 2 clubhouses, storm water detention facilities, greenspace, gated entrances, sidewalks, and dog walks. He also stated that the developer has chosen to build a six foot concrete wall and that the complex will also include an eight foot buffer of evergreens and will further be separated by existing development by a fifty foot public street so that any other property will be at least ninety-three feet from the apartments. He stated that utilities that would ultimately serve the project are in place and that the sewer will not be routed to the Whitfield and Winslow subdivisions. The apartments are expected to be rented at a rate of \$900/month for a one-bedroom unit and \$1300 for a two-bedroom unit. Mr. Morell then introduced Julie Lenoir of Skipper Consulting to address traffic concerns.

Ms. Lenoir reported the results of a traffic study performed by Skipper Consulting. The study included Highway 72 and Kelly Drive, Highway 72 and Lindsay Lane and Lindsay Lane and Medical Village Drive. According to Alabama Department of Transportation (ALDOT) standards for this type of roadway, Lindsay is rated to handle 20,800 cars per day. Ms. Lenoir stated that according to the study conducted by Skipper, the traffic count on Lindsay Lane is approximately 7,000 vehicles per day accounting for school traffic and peak evening traffic. She concluded that Lindsay Lane would be able to support the proposed development at an acceptable level of service based on the traffic study.

Mr. Morell addressed the Council again to point out that the City's Master Plan adopted on December 17, 2013 included the subject property as suitable for this type development and that this Master Plan was adopted after multiple public hearings were conducted. He further stated that the Developer found this property on the City's Master Plan and that no other property is currently zoned B-2 because there are no other "Class A" developments currently in the City. He also reminded the Council that there have been other initially contentious developments approved by the Council which have proven successful citing the Canebrake and Piney Creek residential developments, as well as the Medical Village development and the Athens Fire Station located on Medical Village Drive.

Bill Ming of Ming Enterprises then addressed the Council to express his support for the rezoning request. He stated that the property is currently assessed as agricultural for property tax purposes and generates \$70 in annual property tax revenues. If the property is developed as proposed, the property tax revenues generated would increase to \$100,000 per year.

Tim Barton with J & J Development, the developer of the proposed apartment project, then addressed the Council. He stated that with the announcement of the multi-billion dollar Toyota Mazda Plant, developers are going to show up in a community. He stated that representatives of J & J have met with city leaders, public works personnel and others in the community and have responded to all that was asked of them. He stated that the apartment complex would be professionally managed. He asked that residents in the surrounding communities be good citizens and neighbors and that the rumors and misinformation of Facebook and via emails concerning the apartments be dispelled.

Paul Scott, 14697 Cheyenne Drive, Athens, voice opposition to the apartments. He stated that the pictures shown in the power point presentation looked good, but in fact, wouldn't be since the fence would only be six feet tall.

Tom Hill, 23368 Piney Creek Drive, Athens, and Executive Director of the Limestone County Economic Development Association, voiced support for the project citing the growth of the area. He stated that there are no places for young professionals to live while they are getting started in their careers.

Lynne Lane, HR Manager with EFI Automotive, Elkmont, AL, expressed her support for construction of the apartments. She stated that her company currently has 230 employees and cited the difficulty in bringing young professional people here because there's no place for them to live.

Phil Bray, HR Manager with Polaris and an Athens resident, also expressed support for the proposed apartments. He asked the Council to please consider approving the request as Class A luxury apartments are needed for the continued growth of this area.

Betty Dean Newman, Canebrake Subdivision, Athens, stated her opposition to the rezoning request citing traffic concerns.

Brandon Hicks, 114 Whitfield, Athens, spoke in opposition to the construction of the apartments. He stated that there is nothing preventing an R-2 district from becoming a trailer park. He voiced his disagreement with the traffic study presented by Ms. Lenoir and expressed his concerns with flooding and storm water issues, what type fence would actually be constructed and concern with protecting the lifestyles of the existing residents. He stated he would be in favor of R-1 commercial development over the construction of apartments.

Jesse Evans, an attorney for one of the existing property owners in the area, spoke in opposition to the rezoning on behalf of his client, Mr. Crask. He stated that the traffic study doesn't take safety into account. He also took issue with the developer's assertion that storm water could be controlled and the City's Master Plan being anything other than a guide.

Michael Lambert, 911 Brahma Street, Athens, also spoke in opposition to the apartment project. He stated that there had been issues with the similar development in the Village of Providence in Huntsville. He also claimed that, according to ALDOT, Lindsay Lane is at 75% capacity, which is in opposition to the traffic study data presented by Ms. Lenoir. He also stated that management of the proposed apartments could make this a Section 8 facility and that the City can't guarantee this project won't turn into subsidized housing.

Fran Westrich, 204 Winslow Drive, Athens, voiced her opposition to the construction of the apartments by asking for a show of hands of those who would rather have B-2 development than R-2 construction. Several in attendance raised their hands in support.

Nick Laugh, 14469 Turnberry Lane, Athens, spoke in opposition to the apartments. He asked the Council not to rush into approving this project, stating that there will be other opportunities and pleaded with them to take the time to analyze those opportunities. He also stated that young professionals want mixed use properties.

William Clark, 102 Meadowview Street, Athens, stated that although he is not currently a resident, he and his family want to live in the Whitfield Winslow subdivision. He stated they recently learned of the proposed rezoning and apartment complex and oppose it. He claims that it will lower property values and cause traffic issues.

Louise Prestoloski, Canebrake Subdivision, Athens, voiced opposition to the development, as well. She stated that Lindsay Lane has to be expanded as it will soon become a short cut from the proposed Greenbrier Parkway to be built by Huntsville.

Tony Elliot, 22090 Chickasaw Drive, Athens, spoke in opposition to the apartments citing that the infrastructure cannot sustain the project and stating that the property rights of existing residents should prevail over those of the developer.

Adam Creasy, 202 Whitfield Drive, Athens, voiced his opposition to the apartments. He stated that he is one of the twenty five residents whose property will adjoin the proposed apartment property. He also disputed the results of the traffic study reported by Ms. Lenoir and stated that the individual property owners' investments are as important as the developer's.

Wesley Brown, 22457 Shawnee Lane, Athens, also voiced his opposition to the apartments and also disputed the results of the traffic study. He stated that the road is not built for that type of traffic.

Francie Johnson, 200 Whitfield, Athens, spoke in opposition to the apartments.

Bobby Paysinger, 119 Winslow Drive, Athens, also voiced his opposition to the project citing concerns over decline in property values and increased traffic.

Debbie Rogers, 101 Victoria Drive, Madison, also spoke in opposition to the construction of the apartments. She stated that she has located and wants to purchase a home in the area and if the project is approved, she will not proceed with the purchase.

Council President Seibert closed the public hearing.

Council President Seibert stated his inclination that there should not be a vote on the application for rezoning (and proposed master development plan) until the City Council had an opportunity to fully consider what it had heard from the presentation and at the public hearing, so that it could make an informed decision. Then, other council members voiced their own thoughts about whether or not an immediate vote should be taken on the proposed rezoning. President Seibert then announced that the City Council would take up the matter at its next regular meeting in two weeks to allow everyone to review the facts and have adequate time to make an informed decision.

Council President Seibert then temporarily paused the meeting in order to give any person in attendance the opportunity to leave City Hall before the City Council attended to the other items on the agenda.

**Councilman Cannon introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve travel expenses for the following personnel from the City Clerk Department.

Annette Barnes	Government Finance Officers Association of AL Summer Conference Orange Beach, AL August 15, 2018-August 17, 2018	\$978.50
Dana Stephenson	Retirement Systems of Alabama Retirement Contribution Training Montgomery, AL August 13, 2018	\$ 20.88

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

**Councilman Wales introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve travel expenses for the following personnel:

Frank Travis	CMO Training Montgomery, AL August 20, 2018 – August 21, 2018	\$ 381.75
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The motion was seconded by Councilman Harper and was unanimously carried.

**Councilman Travis introduced the following ordinance:**

**ORDINANCE NO. 2018 - 2053**

**AN ORDINANCE CONCERNING THE SUMMER IRRIGATION PROGRAM**

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**WHEREAS**, the Athens City Council wishes to codify and expand Athens Water Services' Summer Irrigation Program;

**WHEREAS**, the Athens City Council wishes to expand the number of months in which utility customers can participate in this cost-savings program; and

**WHEREAS**, this Ordinance makes other minor and clarifying adjustments to § 50-73 of the City Code.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS,**

**ALABAMA**, while in regular session on August, 27, 2018, at 5:30 p.m., as follows:

**Section 1.** Section 50-73 of Chapter 50, Article III of the City Code of the City of Athens, Alabama

is hereby amended and restated so as to read as follows:

**Sec. 50-73. - Determination of quantity of water discharged into sanitary sewer system.**

(a) In the case of each establishment that obtains from the water system water that it discharges into the sewer system, the quantity of water discharged into the sewer system during a billing period shall, for the purposes of § 50-72, be deemed to be the quantity shown on the bill for water furnished to that establishment from the water system during the same billing period, except that:

(1) if any establishment so desires, it may cause to be installed, at its sole expense and subject to the approval of the manager of the water and sewer department, a separate meter to measure the discharge of wastewater, in which event the charge for sanitary sewer service to such establishment shall be based on the amount of wastewater discharge rather than on the amount of water consumed;

(2) in the case of any establishment where any portion of the water consumed by the establishment is not customarily discharged or disposed of through sanitary sewer lines of the city, the establishment, if it so desires, may cause to be installed, at its sole expense and subject to the approval of the manager of the water and sewer department, a separate meter measuring that portion of its water consumption that is customarily discharged or disposed of through sanitary sewer lines of the city, in which event the charge for sanitary sewer service to such customer shall be based on the amount of that portion of the water consumption that is customarily discharged or disposed of through sanitary sewer lines of the city, as shown by such separate water meter; or

(3) in the case of any establishment where all or any significant portion of the water consumed by the establishment is obtained from sources other than the water department of the city, such establishment shall cause to be installed, at its sole expense and subject to the approval of the manager of the water and sewer department, a meter to measure that amount of water consumed from sources other than the water division of the city, in which event the charge for sanitary sewer service to such establishment shall be based on that amount of water consumed that is furnished by such other sources (as shown by such meter), as well as on the amount of any water consumed that is furnished by the water division of the city.

(b) Notwithstanding the application of § 50-73(a), for and with respect to any of the months of May through October of each year, in the case of establishments that participate in the Summer Irrigation Program, the quantity of water discharged into the sewer system during a billing period shall be deemed to be either: one hundred ten percent (110%) of the average quantity of water furnished to that same establishment from the water system each month (and from other sources, where § 50-73(a)(3) applies) during the previous months of October through April, or the quantity shown on the bill for water furnished to that establishment from the water system during the same billing period (and from other sources, where § 50-73(a)(3) applies), whichever is less. The Summer Irrigation Program is not available for establishments that have opted to be subject to § 50-73(a)(1) or (a)(2). The Summer Irrigation Program shall be established by the manager of the water and sewer department, who is authorized to establish rules and regulations for such program, including but not limited to rules governing (i)

participation in the Summer Irrigation Program, and (ii) establishments that do not have a prior average from October through April available.

**Section 2.** If any provision of this ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

**Section 3.** No other provisions of the City Code are amended by this Ordinance, unless specifically stated and referenced herein.

**Section 4.** The provisions of this Ordinance shall be included and incorporated in the *Code of Ordinances of the City of Athens* as an addition or amendment thereto, and shall be appropriately renumbered as necessary to conform to the uniform numbering system of the Code.

**Section 5.** This Ordinance shall become effective immediately upon its publication.

ADOPTED and APPROVED this, the 27<sup>th</sup> day of August, 2018.

/s/ Chris Seibert  
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 the Ordinance duly adopted by the City Council of the City of Athens, on the 27<sup>th</sup> day of August, 2018.

Witness my hand and seal of office this the 27<sup>th</sup> day of August, 2018.

/s/ Annette Barnes  
City Clerk

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

**Councilman Harper introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that a 2006 Ford F150 pickup truck (VIN 1FTRX12W97FA61350) be declared as surplus property of the Water Services Division, City of Athens Utilities and sold at public auction on GovDeals.com.

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

**Councilman Wales introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to authorize the Mayor to issue a task order to Reed Contracting under the bituminous asphalt contract to mill and pave Medical Village Drive. The project budget amount is \$50,000 and shall be funded from the Capital Infrastructure account.

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

**Councilman Travis introduced the following resolution:**

**RESOLUTION**

BE IT AUTHORIZED BY THE CITY COUNCIL OF THE CITY OF ATHENS to authorize the Mayor to enter into a contract with Wiregrass Construction for the amount of \$1,898,904 for road improvements related to the Athens High School Project on U.S. 31, Elm Street, Golden Eagle Drive, and Drive entrance to the school. The total cost of the project, including construction, engineering and inspection services is estimated to be \$2,113,000. The project is a joint project between Alabama Department of Transportation, City of Athens School System and the City of Athens. The City of Athens' anticipated proportional share will be up to \$400,000 and shall be funded from the City's Capital Infrastructure fund.

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

**Councilman Harper introduced the following ordinance:**

**ORDINANCE NO. 2018-2054  
AN ORDINANCE CONCERNING AMENDMENTS TO THE  
SIDEWALK DINING ORDINANCE**

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**WHEREAS**, in 2017, the Athens City Council adopted a Sidewalk Dining Ordinance to allow, in certain cases, sidewalk dining in the downtown area; and

**WHEREAS**, after observing its experience with the new sidewalk dining permits, the City Council desires to amend two portions of the Sidewalk Dining Ordinance (i) to adjust the minimum unobstructed width to mirror federal guidelines, and (ii) to allow city officials the flexibility to determine, in a given situation, whether it is preferable to affix railings or mount them on a weighted base.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**, while in regular session on August 27, 2018, at 5:30 p.m., as follows:

**Section 1.** Section 74-81(f)(10) of the *Code of Ordinances of the City of Athens* is hereby amended

so that it states as follows:

(10) The free passage of pedestrians along the sidewalk shall not be prevented or substantially impaired, **as determined by the City, but** ~~and~~ there shall be at least a minimum sidewalk width of **four** ~~five~~ feet of unencumbered sidewalk that is open for pedestrian use maintained adjacent to the permitted premises.

**Section 2.** Section 74-81(f)(2) of the *Code of Ordinances of the City of Athens* is hereby amended so

that it states as follows:

(2) The city may require that the permitted premises be delineated by a railing or other method of delineation ~~that is not affixed to any portion of the sidewalk or other public property.~~ The City may require, in its discretion and as it deems preferable in the interest of the condition of public property and welfare, whether the railing or other method of delineation be freestanding (with a weighted base) or affixed to the sidewalk.

**Section 3.** If any provision of this ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

**Section 4.** No other provisions of the City Code are amended by this Ordinance, unless specifically stated and referenced herein.

**Section 5.** The provisions of this Ordinance shall be included and incorporated in the *Code of Ordinances of the City of Athens* as an addition or amendment thereto, and shall be appropriately renumbered as necessary to conform to the uniform numbering system of the Code.

ADOPTED and APPROVED this, the 27<sup>th</sup> day of August, 2018.

/s/ Chris Seibert  
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 the Ordinance duly adopted by the City Council of the City of Athens, on the 27<sup>th</sup> day of August, 2018.

Witness my hand and seal of office this the 27<sup>th</sup> day of August, 2018.

/s/Annette Barnes  
City Clerk

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

**Councilman Cannon introduced the following resolution:**

**RESOLUTON**

BE IT RESOLVED BY THE CITY OF ATHENS, ALABAMA, that the training building located within the property boundaries of Leak City, 807 East Sanderfer Road, Athens, AL, 35611, be names the Steve Carter Training Facility at Leak City. This applies as the name of the main enclosed training facility, which is located on the west side of the 37 acre property, aptly names Leak City.

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

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There being no further business to come before the meeting, Council President Seibert asked if there were any objections to adjourning the meeting. There being none, the meeting was duly and properly adjourned.

/s/ Chris Seibert  
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ Annette Barnes  
CITY CLERK