

January 25, 2010

STATE OF ALABAMA,
LIMESTONE COUNTY,
CITY OF ATHENS.

The City Council of the City of Athens, Alabama, met in regular session at the Athens Police Department Court Room at 951 Hobbs Street East in the said City on January 25, 2010, at 5:30 p.m. The meeting was called to order by Councilman William R. Marks, President of the Council. Upon roll call the following were found to be present: Councilmembers Harold Wales, Jimmy Gill, William R. Marks and Mildred Caudle. Mayor Dan Williams and Councilmember Mignon Bowers were absent. Shane Black, City Attorney, was present and led the pledge of allegiance. John Hamilton, City Clerk, was present and recorded the minutes of the meeting. Mildred Caudle 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 January 11, 2010 City Council Meeting had been submitted for approval. Councilman Gill moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Wales and was unanimously carried. The Chairperson stated that the Minutes of the January 11, 2010 City Council Work Session Meeting had been submitted for approval. Councilman Gill moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Wales and was unanimously carried.

A public hearing was held to hear comments on the rezoning request of Spencers, LLC for property located at Lucas Ferry Road and Highway 72 West. No one spoke for or against.

Councilman Wales introduced the following ordinance:

STATE OF ALABAMA,
LIMESTONE COUNTY,
CITY OF ATHENS.

ORDINANCE NUMBER 2010-1743

AN ORDINANCE TO REZONE PROPERTY FOR SPENCERS, LLC, FROM M-1 TO B-3. PROPERTY IS LOCATED IN THE SOUTHEAST QUADRANT OF LUCAS FERRY ROAD AND HIGHWAY 72 WEST

WHEREAS, the City Council of the City of Athens, Alabama, has heretofore adopted, "The Zoning Ordinance of the City of Athens, Alabama," and,

WHEREAS, the Planning Commission of the City of Athens, Alabama, has made a recommendation to the City Council of the City of Athens, Alabama, that the hereinafter described area should be rezoned from M-1 Light Industrial District to B-3 Highway Business District.

The City Council of the City of Athens, Alabama, finds that "The Zoning Ordinance of the City of Athens, Alabama," should be amended so as to rezone the hereinafter described area as "B-3".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, as follows:

That all of the hereinafter described area or real estate is hereby zoned "B-3 Highway Business District" in accordance with and defined by "The Zoning Ordinance of the City of Athens, Alabama," and that the area which is zoned as aforesaid is situated in Athens, Limestone County, Alabama, and is more particularly described as follows:

Two tracts located in the Northwest Quarter Section 18, Township 3 South, Range 4 West of the Huntsville Meridian in Limestone County, Alabama. These tracts are more particularly described as follows:

Tract 1

Commence from the Point of True Beginning at the Northwest corner of Section 18, Township 3 South Range 4 West of the Huntsville Meridian in Limestone County, Alabama, which is a point located at the intersection of the centerlines of Lucas Ferry Road and U.S. Highway 72; thence North 87 degrees 20 minutes East a distance of 371.1 feet to a point on the centerline of U.S. Highway 72; thence South 03 degrees 52 minutes East a distance of 550.8 feet to a point, passing a point on the south margin of U.S. Highway 72 (160 foot Right-of-Way) at 60 feet; thence South 87 degrees 12 minutes West a distance of 20.0 feet to a point; thence North 03 degrees 42 minutes West a distance of 230.88 feet to a point; thence South 87 degrees 20 minutes West a distance of 351.82 feet to a point on the centerline of Lucas Ferry Road, passing a point on the east margin of Lucas Ferry Road (60 foot Right-of-Way) at 321.82; thence North 03 degrees 42 minutes 30 seconds West a distance of 320.00 feet along the centerline of Lucas Ferry Road to the Point of True Beginning, and containing 2.83 acres, more or less.

Tract 2

Commence at the Northwest corner of Section 18, Township 3 South Range 4 West of the Huntsville Meridian in Limestone County, Alabama, which is a point located at the intersection of the centerlines of Lucas Ferry Road and U.S. Highway 72; thence South 03 degrees 42 minutes 30 seconds East a distance of 770 feet; thence North 86 degrees 17 minutes 30 seconds East a distance of 353.03 feet to the Point of True Beginning. Starting at the Point of True Beginning thence North 86 degrees 17 minutes 30 seconds East a distance of 232.81 feet to a point; thence North 02 degrees 59 minutes West a distance of 209.52 feet to a point; thence South 87 degrees 12 minutes West a distance of 236.13 feet to a point; thence South 03 degrees 52 minutes East a distance of 213.27 feet to the Point of True Beginning, containing 1.14 acres, more or less.

ADOPTED and APPROVED this, the 25th day of January, 2010.

/s/ William R. Marks
PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

/s/ Dan Williams
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton
CITY CLERK, CITY OF ATHENS, ALABAMA

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

Carol Schwarzenbach, 22561 Village Lane, is against Charter's franchise renewal because of the lack of an enforceable service agreement and poor customer service and responses.

David Malone and Wayne Gooch had the same comments about Charter Cable having poor service.

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to set a Public Hearing for the regular meeting of February 22, 2010 to review the request of the Smith Family Limited Partnership to annex approximately 80.25 acres of land that is located on AL Highway 251, east of Lindsay Lane, and zone said property as AG Agricultural District.

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

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to set a Public Hearing for the regular meeting of February 22, 2010 to review the request of The Church of Latter Day Saints, located at 1716 West Market Street, to rezone their property from R-1-1 to R-2-1.

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

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to conduct a Public Hearing at the regular scheduled City Council Meeting on February 8, 2010 regarding the amendment of Ordinance Number 2005-1569.

An ordinance of the City of Athens, Alabama adopting the 2009 edition of the following will replace/update existing building codes within the City of Athens, Alabama upon approval of this Ordinance: 2009 International Building code (IBC), 2009 International Residential Code (IRC), International Mechanical Code (IMC), 2008 National Electric Code (NEC), 2009 International Plumbing Code (IPC), 2009 International Fuel Gas code (IFGC), 2009 International Code Council Electrical Code (ICCEC), 2009 International Fire Code (IFC), 2009 International Property Maintenance Code (IPMC), 2009 International Existing Building Code (IEBC), 2006 American National Standard Accessibility and Usability for Buildings and Facilities (ICC/ANSI A117-2006), regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of systems; providing for the issuance of permits and collection of fees therefore; repealing Ordinance No. 05-1569 of the City of Athens and all other ordinances in conflict therewith.

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

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that the travel expenses in the following amount be approved for Electric Department personnel.

Nathan King	TVPPA – Line Design & Staking Certification Training 3 Nashville, TN	\$100.00
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The motion was seconded by Councilman Wales and was unanimously carried.

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to appoint Bertha Caldwell to the Lincoln Bridgeforth Advisory Park Committee fro a term beginning January 25, 2010 and ending September 30, 2012.

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

Councilman Gill moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to appoint Robin Hines to the Lincoln Bridgeforth Advisory Park Committee fro a term beginning January 25, 2010 and ending September 30, 2012.

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

Councilwoman Caudle moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to purchase a 2010 Massey Ferguson, 85 horsepower tractor with dual interstater flail mower system and an 18' 6" total cutting width. The price is \$69,453.30 and will be bought from Equipment and Parts Specialty Co., Inc., from the state bid list. The tractor will be paid from the Landfill Fund.

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

Councilwoman Caudle moved the adoption of the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve \$17,000 for training expenses and monitoring of the old, city landfill. The Landfill Fund will be charged.

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

Councilwoman Bowers made for introduction only the following ordinance:

**STATE OF ALABAMA,
LIMESTONE COUNTY,
CITY OF ATHENS.**

ORDINANCE NUMBER 2010-1744

**AN ORDINANCE RENEWING A NONEXCLUSIVE FRANCHISE TO CHARTER
COMMUNICATIONS CONCERNING A CABLE TELEVISION SYSTEM**

WHEREAS, Charter has proposed to renew and extend that certain non-exclusive franchise, the original terms of which are found in Ordinance No. 88-1030, and which have been extended to Falcon First Cable of the Southeast, Inc. (l/k/a Charter Communications) (referred to herein as "Charter");

WHEREAS, the franchise found at Ordinance No. 88-1030 was assigned/extended to Charter and has been continuously renewed by the City Council and Charter;

WHEREAS, the public has been afforded adequate notice and opportunity for comment; and

WHEREAS, Charter is agreeable to such extension pursuant to the same terms as set forth in Ordinance No. 88-1030.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, while in regular session on Monday, January 25, 2010, at 5:30 p.m., as follows:

1. The City hereby renews and extends its grant of a nonexclusive franchise to occupy or use the Public ways to provide Cable Service to all Persons located in the Service Area to Charter under the same definitions, terms, and conditions as set forth in Ordinance No. 88-1030, and any amendments thereto, for a period of five (5) years from the date of the passage of this Ordinance by the City Council of the City of Athens, Alabama, unless sooner terminated in accordance with the terms thereof.

2. This Ordinance is conditioned upon Charter filing with the City its unconditional acceptance of the Franchise and agreement to comply with and abide by all the provisions, terms, and conditions set forth herein and in Ordinance No. 88-1030, and any amendments and extensions thereto, in a form acceptable to the City.

ADOPTED and APPROVED this, the 25th day of January, 2010.

/s/ William R. Marks
PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

/s/ Dan Williams
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton
CITY CLERK, CITY OF ATHENS, ALABAMA

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
LIMESTONE COUNTY)

I, John Hamilton, City Clerk of the City of Athens, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Athens, Alabama, on the ____ day of _____, 2010.

Witness my hand and seal of office this ____ day of _____, 2010.

John Hamilton, City Clerk

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

Councilwoman Caudle moved the adoption of the following resolution:

RESOLUTION NUMBER 2010-1132

A Resolution Opposing any Proposed Alabama House of Representatives or Alabama Senate Bill to Exempt Prescription Drugs from Gross Receipts License Tax

WHEREAS, a House or Senate Bill is to be filed in the House of Representatives or Senate; and

WHEREAS, this House or Senate Bill will grant an exemption of prescription drug sales from gross receipts for business license fees; and

WHEREAS, business license excise fee is inherently about enabling basic services in a city – the provision of fire, police and public works to individual businesses; and

WHEREAS, drug sales are not taxable for state and local sales tax purposes, the business license is a way for this very complicated business to provide their fair share for local police, which they depend on heavily due to the nature of the business – drug abuse, robbery and burglary; and

WHEREAS, exempting prescription drugs from a gross receipts license tax, the House or Senate Bill will go a long way in under-cutting a city's ability to provide such services; and

WHEREAS, the House or Senate Bill would immediately remove an estimated \$45,000 from the City of Athens' operating budget; and

WHEREAS, this bill would adversely affect other cities and counties throughout the State of Alabama at a time when cities and counties can least afford it; and

WHEREAS, the House or Senate Bill would allow pharmacies to make little to no contribution toward the cost of city services and provide no benefit to the person purchasing prescriptions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Athens that the Council hereby formally opposes the passage of any proposed House or Senate Bill granting an exemption of prescription drug sales from gross receipts for business license fees; and

BE IT FURTHER RESOLVED that the City of Athens formally requests that the Honorable Senators Tom Butler and Arthur Orr, and Honorable Representatives Henry White, Mac McCutcheon, and Micky Hammon vote against and use all available legislative procedural means to defeat this bill and protect the legal rights of the City of Athens and other cities and towns throughout Alabama.

THEREUPON, Councilwoman Mildred Caudle, a member, moved and Councilman Harold Wales, a member seconded the motion that said resolution be given vote, and said resolution passed by majority vote of the Council present and the Council President declared the same passed.

ADOPTED and APPROVED this, the 25th day of January, 2010.

/s/ William R. Marks
PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

/s/ Dan Williams
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton
CITY CLERK, CITY OF ATHENS, ALABAMA

I, the undersigned qualified clerk of the City of Athens, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City Council of the City named herein, at a regular meeting of such Council held on the 25th day of January 2010 and that such resolution is on file in the office of the City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this 26th day of January 2010.

Seal

John Hamilton, City Clerk

The motion was seconded by Councilman Wales 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 Gill and second by Councilman Wales, duly and properly adjourned.

/s/ William R. Marks
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ John S. Hamilton
CITY CLERK