

July 25, 2011

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, 951 Hobbs Street East in the said City on July 25, 2011, at 5:30 p.m. The meeting was called to order by Councilman Jimmy W. Gill, President of the Council. Upon roll call the following were found to be present: Councilmembers Mignon Bowers, Harold Wales, Jimmy Gill, James Hickman and Mildred Caudle. Mayor Marks was present and led the pledge of allegiance. John Hamilton, City Clerk, was present and recorded the minutes of the meeting. James Hickman 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 July 7, 2011 City Council Meeting had been submitted for approval. Councilwoman Caudle 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 July 7, 2011 City Council Work Session Meeting had been submitted for approval. Councilwoman Caudle 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.

Joe Ivey, Limestone Amateur Radio Operator, explained the role of the organization in notifying agencies of bad weather when approaching.

A public hearing was held to hear comments on the demolition of an unsafe structure located at 839 West Strain Road.

Shirley Denise Williams, owner of the property at 839 West Strain Road, asked if she could set up a payment plan to repay the demolition costs. She was to meet with Shane Black about it.

The public hearing was closed.

Councilman Wales introduced the following resolution:

RESOLUTION NUMBER 2011-1206

A RESOLUTION FIXING AND ASSESSING COSTS ASSOCIATED WITH THE DEMOLITION AND ABATEMENT OF AN UNSAFE STRUCTURE AT 839 WEST STRAIN ROAD

WHEREAS, this Resolution is authorized by § 11-40-30, *et seq.* of the *Code of Alabama*, in addition to other legal authority;

WHEREAS, in Resolution No. 2011-1192, this Athens City Council required the demolition of an unsafe structure (herein referred to as the “Structure”) located at the real property described in **Exhibit A** hereto (referred to herein as the “Property”);

WHEREAS, the demolition was carried out by the City’s own forces;

WHEREAS, pursuant to Resolution No. 2011-1192, Chief Southard of the Athens Fire Department has presented a report to the City Council of the costs associated with the demolition of the Structure so that this Council may adopt a resolution fixing all costs reasonably incurred in the demolition and assessing such costs against the Property;

WHEREAS, notice has been provided to all interested persons and entities as set forth in § 11-40-33; and

WHEREAS, such Property is referenced as Tax Parcel Number 10-05-22-0-001-041.000 by the Limestone County Revenue Commissioner.

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA on July 25, 2011, at 5:30 P.M. p.m., as follows:

1. The report of costs associated with the demolition of the Structure on the Property and attached hereto as Exhibit B is accepted, and the costs shown therein are hereby fixed as reasonably incurred in the demolition and assessed as costs against the Property.

2. The amount of \$6,434.50 shall be a special assessment against the Property, and shall constitute a lien as set forth in § 11-40-33 of the *Code of Alabama*.

3. The City Attorney shall file a certified copy of this Resolution and its exhibits with the Office of the Judge of Probate of Limestone County, Alabama.

4. Pursuant to §11-40-33 of the *Code of Alabama*, the City Attorney shall provide a certified copy of this Resolution and its exhibits to the Limestone County Revenue Commissioner, who shall add the amount of the lien to the next regular ad valorem tax bills for taxes levied against the Property, collect the same as if it were a tax, and remit the same to the City of Athens. Pursuant to § 11-40-35, the City elects to have the revenue commissioner collect the assessment by adding it to the tax bill, and then collecting the assessment using all methods available for collecting ad valorem taxes.

ADOPTED and APPROVED this, the 25th day of July, 2011.

/s/ Jimmy W. Gill
PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

/s/ William R. Marks
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 a Resolution duly adopted by the City Council of the City of Athens, Alabama, on the 25th day of July, 2011.

Witness my hand and seal of office this ___ day of _____, 2011.

John Hamilton, City Clerk

EXHIBIT A

A tract of land lying and being in the east half of the east half of the northeast quarter of the southwest quarter of section 22, Township 3 South, Range 4 West, more particularly described as follows:

Beginning at a point on the south boundary of said northeast quarter of the southwest quarter of Section 22, 70 feet east of the southwest corner of the east half of the east half of said quarter-quarter section; thence north and parallel with the west boundary of the east half of the east half of said quarter-quarter section, 150 feet; thence east and parallel with the south boundary of said quarter-quarter section, 65 feet to the center of Luke Street; thence south along the center of said like street and parallel with the west boundary of the east half of the east half of said quarter-quarter section, 150 feet to a point on the south boundary of said quarter-quarter section; thence west along said south boundary 65 feet to the point of beginning.

Subject to all restrictions, reservations, rights, easements, right-of-way, provisions, covenants, terms, conditions and building set back lines of record.

Address: 839 Strain Road; Athens, AL 35611
Tax Map or Parcel ID No.: 10-05-22-0-001-008.000

Subject property is located in Limestone County

EXHIBIT B

**REPORT TO ATHENS CITY COUNSEL OF THE COST OF DEMOLITION OF STRUCTURE
AT 839 WEST STRAIN ROAD**

This report of the costs associated with the demolition of a structure at 839 West Strain Road shall be submitted to the Athens City Council at its regular meeting at 5:30 P.M. on July 7, 2010. At such time, the City Council shall hear the report, and thereupon may adopt a resolution fixing the costs which it finds to be reasonably incurred in the demolition and assessing those costs against the property.

The demolition of the unsafe structure at 839 West Strain Road was called for by the Athens City Council in its Resolution No. 2011-1192.

The City of Athens, Alabama has incurred the following costs associated with the demolition of the unsafe structure that was located at 839 West Strain Road:

Employee Labor Costs	\$650.72
Truck/Equipment Costs	\$2,940.00
Disposal Weight Tickets (5/23/2011)	\$288.53
Disposal Weight Tickets (5/24/2011)	\$1,521.82
Loads of Dirt(2)	\$130.00
Fuel Cost	\$373.93
Attorney Fees/Costs	\$449.50
Title Search	\$80.00
TOTAL:	\$6,434.50

No monies were received by the City from the sale of the salvaged materials from the demolished building or structure. This report is provided to the Athens City Council pursuant to § 11-40-33 of the *Code of Alabama*.

Respectfully submitted by:

Danny Southard, Chief
Athens Fire Department

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

The next matter on the agenda was a public hearing related to a rezoning request. Mr. Jay Spencer and Mr. Jeff Peek own real property at 1310 West Elm Street, which is located near and west of Edgewood Road. The property is located in an AG Agricultural District. Mr. Spencer operates a business called the “Athens E-Bay Club” on one of the properties. Mr. Peek owns the adjacent property, which consists of undeveloped land. Mr. Spencer and Mr. Peek requested that the property be rezoned as a B-2 General Business District.

Pursuant to state law and the City’s zoning ordinance, the rezoning request was first presented to the City of Athens Planning Commission. On April 19, 2011, the planning commission voted 6-1 to recommend to the Athens City Council that Mr. Spencer and Mr. Peek’s rezoning request be denied. The matter was then transferred to the Athens City Clerk for city council review. The city council set the public hearing for July 25, 2011, and the hearing was advertised pursuant to state law.

Council President Jimmy Gill announced the opening of the public hearing, and invited any and all persons to speak who were in favor of the rezoning request.

President Gill recognized Attorney Eddie Alley. Attorney Alley advised that he represented Mr. Jay Spencer, and would speak in favor of the rezoning request. During his presentation, Attorney Alley displayed an oversized map to the council, which showed the location of the real property in question, as well as the adjacent properties.

Attorney Alley explained that Mr. Spencer’s property in question was currently used for his business, the “Athens E-Bay Club,” and that Mr. Peek’s neighboring property was undeveloped. Alley argued that both properties should be rezoned from an AG Agricultural District to a B-2 General Business District.

An AG Agricultural District permits agricultural and low-density residential uses, but Alley stated that there was a pattern of usage in the area that was not agricultural or residential in nature. He noted that the City’s zoning map (the current version of which was adopted in 2007) and Future Land Use Plan (adopted in 2003) called for agricultural or low-density residential use, but he claimed that the conditions on and around the property showed a different pattern of use. Attorney Alley pointed out some of the neighboring properties that displayed other uses – including the AT&T facility, the E-911 center, the City’s drainage

detention structure, the Limestone County Board of Education school bus garage, and the City's Public Works facility. Alley claimed that these nearby uses discouraged the uses permitted in an AG Agricultural District (such as the construction of a house or other agricultural use), and showed that the City should rezone the subject properties for a commercial use.

Alley argued that a B-2 General Business District zoning would allow Mr. Spencer to expand his existing mini-storage operations. Alley argued that there was an increased need for mini-storage facilities in the county, and that an expanded facility would help address that need. Alley argued that the increased operations would result in the addition of one employee at the site. Attorney Alley encouraged the City Council to say "yes" to these expanded operations.

Citing other ordinances of the City, Alley noted that by rezoning to a B-2 General Business District, the City would be able to hold the property to greater beautification standards.

Alley further argued that although this property was zoned as an AG Agricultural District, the City was not in dire need of residential or agricultural units. Alley opined that this real property was perfectly suited for storage units.

Attorney Alley introduced a series of slides (attached to these minutes), in which he asked the city council to consider a number of factors, such as diminished property values, in considering this issue. Alley explained that the real properties' designation as agricultural hurt the value of the properties, and that re-designating the properties as a B-2 General Business District zone would enhance their value. At that point, Councilman Harold Wales asked what proof there was of a significant diminished property value. Attorney Alley called on Mr. Jay Spencer, who responded that Mr. Peek's property had been on the market for some time, and while there had been prospective purchasers who were interested in the property if it were commercially zoned, there were no interested prospective purchasers upon learning that Mr. Peek's property was zoned agricultural.

Attorney Alley further explained that another factor the City Council should consider is the extent to which the City has deviated from its existing Future Land Use Plan. Alley presented a series of examples and pointed out that the City did not always act in accordance with the City's Future Land Use Plan. Using those examples, Alley stressed that such plan was merely a guideline rather than a mandate.

Alley concluded his remarks by asking the council to vote "yes" on Mr. Spencer and Mr. Peek's rezoning application.

Seeing no other persons who wished to speak in favor of the rezoning question, Council President Jimmy Gill invited any and all persons to speak who were opposed to the rezoning request.

President Gill recognized Mac Martin, the City Planner for the City of Athens. Martin spoke in opposition to the rezoning request.

Martin explained the current legal status of Mr. Spencer's property as it relates to zoning regulations. Martin explained that Mr. Spencer previously stated that he uses the property as a for-profit club, where members pay dues and receive storage benefits. There are a number of structures on the property which are used to store members' property. As such, Martin explained that Spencer's business arguably complied with the pre-2007 zoning ordinance (which allowed a "for-profit club" on the site) but did not conform with the new 2007 zoning ordinance (which did not allow a "for-profit" club on the site). According to Martin, this makes the present business a "prior-existing non-conforming use" under the zoning ordinance. Martin explained that this means that while Mr. Spencer can maintain his present business, he cannot expand that business through additional buildings or other means.

As an aside, Martin expressed concern about Mr. Spencer's description of his business. Martin stated that Attorney Alley had described Mr. Spencer's current business as a mini-storage business. Martin explained that if it was in fact a mini-storage business, and not a for-profit club, then it was not allowed at this location under either the prior or current zoning ordinance.

In any case, Martin explained that if the council granted Mr. Peek and Mr. Spencer's rezoning request (rezoning from an AG Agricultural District to a B-2 General Business District), then Mr. Spencer's current land use (as a for-profit club with storage benefits for its members) could potentially be expanded on Mr. Spencer's property and onto Mr. Peek's neighboring property. Moreover, the properties could be used for any of the other permissible uses in a B-2 General Business District.

Martin pointed out that the City's existing Future Land Use Plan called for agricultural and low-density residential uses in the area including these properties. Using presentation slides (attached to these minutes), Martin explained and demonstrated that a large portion of the surrounding area remained in use for agricultural and residential purposes. Martin argued that a use for mini-storage purposes (whether classified as a for-profit club or as a storage business) or other uses in a B-2 General Business District, would result in a much more intensive use of the land than that which was acceptable under the Future Land Use Plan. Martin suggested that the city infrastructure in the area – such as the smaller roadway - supported lower-density uses in the area, and that the city had not planned to use its resources to support commercial expansion of a B-2 or greater type in the area.

Martin argued that the properties could still be utilized for the permitted land uses in an AG Agricultural District. Displaying the existing and surrounding land uses on a presentation slide, Martin argued that there was much surrounding property that was presently used for agricultural, low-density and/or residential activities. Martin suggested, for example, that the land could be used to support hay or livestock operations. Martin further argued that while Mr. Peek, Mr. Spencer, and some potential buyers might prefer commercial property instead, the land remained suitable for agricultural use.

Moreover, Martin stated that although there were other types of uses nearby, such as the E-911 Center and the Limestone County Schools Bus Garage, these uses were predominantly governmental/institutional, and not commercial in nature. As such, he argued these uses could not be used to support an argument that there had been a pattern of change that demanded a commercial-type use for Mr. Peek and Mr. Spencer's properties.

Martin further argued that all but one of the other nearby land uses cited by Spencer (i.e., the AT&T facility, the City's Public Works facility, the bus garage, and the drainage pond improvement) predated the City's 2003 Future Land Use Plan, and that all of them (including the E-911 Center), predated the City's 2007 complete revamp of the zoning ordinance. As such, Martin argued that these uses did not suggest that the City had substantially compromised its land use plan and zoning activities in this area.

Martin concluded his remarks by reminding the city council that the Planning Commission had studied the matter and recommended against the rezoning request by a vote of 6 to 1, and encouraging the council to follow that recommendation.

Seeing no other persons who wished to speak against the rezoning question, Council President Jimmy Gill closed the public hearing.

President Gill then announced that the next item on the agenda was a proposed ordinance to rezone real property as requested by Mr. Spencer and Mr. Peek. Gill asked if any council member wished to introduce the ordinance. No member of the city council responded by introducing the proposed ordinance. In lieu of any further or different council action, the council's inaction on the proposed ordinance denied Mr. Spencer and Mr. Peek's rezoning request.

Attachments from Mac Martin, Jay Spencer and Jeff Peek on the following pages.

As the next item on the agenda, a public hearing was held to hear comments on declaring a public nuisance at Watercress Subdivision. Shane Black, City Attorney, spoke in favor of. No one spoke against.

The public hearing was closed.

Councilman Hickman introduced the following resolution:

RESOLUTION 2011-1203

**A RESOLUTION DECLARING PUBLIC NUISANCES
IN THE LAKES AT WATERCRESS
AND THE SPRINGS AT WATERCRESS SUBDIVISIONS**

WHEREAS, the City of Athens is authorized by state law, including but not limited to § 11-67-60, *et seq.* of the *Code of Alabama*, to abate nuisances within the City, such as an abundance of weeds and vegetation that is injurious to the general public health, safety, and general welfare;

WHEREAS, it has been brought to the attention of this City Council that weeds and vegetation located on certain property are injurious to the general public health, safety, and general welfare;

WHEREAS, on June 13, 2011, this City Council adopted a resolution calling for a public hearing regarding this matter on July 25, 2011, at 5:30 P.M.;

WHEREAS, subsequent to the June 13, 2011 resolution and within the time periods specified in § 11-67-60 *et seq.* of the *Code of Alabama*, the City issued certified mail notices to the owners of the subject property, published two notices in the *Athens News Courier*, and posted multiple signs on the subject property;

WHEREAS, at the public hearing on July 25, 2011, this City Council provided an opportunity to hear all evidence, objections, and protests concerning the removal of such weeds, and further received evidence concerning the conditions on the real property described herein; and

WHEREAS, based upon such evidence, this City Council concludes that the condition of the real property at issue is injurious to the general public health, safety, and general welfare by being unsightly and providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, or pests; attaining heights and dryness that constitute a fire threat and/or hazard; bearing wingy or downy seeds, when mature, that cause the spread of weeds and, when breathed, irritation to the throat, lungs, and eyes of the public; or hiding debris, such as broken glass or metal, that could inflict injury on a person

going upon the property; being unsightly; and/or a growth of grass or weeds, other than ornamental plant growth, that exceeds 12 inches in height.

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA on July 25, 2011, at 5:30 p.m., as follows:

1. This resolution concerns certain tracts of real property located in The Lakes at Watercress and the Springs at Watercress subdivisions. The properties include lots and other tracts of real property situated on or near Watercress Drive, Blair Drive, Spring View Drive, Carillon Drive, and Windermere Drive more specifically described below:

(a) Lot Numbers 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 as shown by the Final Plat of the Lakes at Watercress Replat, found at Plat Book H, Page 133, recorded in the Office of the Judge of Probate of Limestone County, Alabama (referred to hereafter as the “Final Plat of the Lakes at Watercress Replat”);

(b) Lot Numbers 2, 3, 4, 6, 7, 8, 10, 11, 14, 29, 45, and 47 as shown by the Final Plat of the Springs at Watercress Replat, found at Plat Book G, Page 306, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further identified by a Surveyor’s Affidavit at RLPY Book 2007, Page 65086, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further still identified in a Ratification of Subdivision Plat at RLPY Book 2007, Page 89676, recorded in the Office of the Judge of Probate of Limestone County, Alabama (referred to hereafter as the “Final Plat of the Springs at Watercress Replat”);

(c) That unimproved area appearing on the Final Plat of the Springs at Watercress Replat that lies (i) north of Windermere Drive; (ii) is designated as “FUTURE DEVELOPMENT”; and (iii) which does not constitute any platted or numbered lot; and

(d) That unimproved area appearing on the Final Plat of the Lakes at Watercress Replat that (i) lies east of Spring Lake; (ii) lies north of Watercress Drive; and (iii) which does not constitute any platted and numbered lot.

2. The abundance of overgrown weeds and vegetation on said properties are hereby declared to be public nuisances subject to abatement by the City pursuant to § 11-67-60 of the *Code of*

Alabama. Any mature trees located on these properties are expressly not included within this definition and are not declared to be nuisances.

3. It is hereby ordered that such offending conditions to be removed and abated. The Mayor is hereby authorized to cause municipal agents to enter upon said property to abate the nuisance. An account shall be kept of the cost of abating and removing the nuisance and a written account thereof shall be presented to the City Council for confirmation and further action.

ADOPTED and APPROVED this, the 25th day of July, 2011.

/s/ Jimmy W. Gill
PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

/s/ William R. Marks
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 a Resolution duly adopted by the City Council of the City of Athens, Alabama, on the ____ day of _____, 2011.

Witness my hand and seal of office this ____ day of _____, 2011.

John Hamilton, City Clerk

The motion was seconded by Councilwoman Bowers and was unanimously carried.

Quentin Anderson, 104 Ridgelawn Drive, gave his opinion concerning planning and image building in Athens.

Councilwoman Bowers introduced the following resolution:

RESOLUTION NUMBER 2011-1204

Hazard Mitigation Grant Program
DR-1971-AL,
City of Athens – One Generator
State-Subgrantee Disaster Assistance Agreement

Whereas, the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program (HMGP) has been established to assist local governments with taking critical mitigation measures to protect life and property from future disasters; and

Whereas, the City of Athens, Alabama acting by and through its Council proposes to apply for HMGP funds to assist in the purchase of one generator; and

Whereas, the City of Athens, Alabama as a recipient of these funds as the subgrantee is required to designate and appoint a Administrative/Financial Officer to perform certain duties in the administration of said grant; and

Whereas, the City of Athens, Alabama as a recipient of these funds as the subgrantee is required to provide and make available funds for the local non-federal share for the above stated mitigation activities.

NOW, THEREFORE, be it resolved by the City Council of Athens, Alabama, as follows:

THAT, William R. Marks, Mayor, is hereby authorized to execute and submit an application with appropriate assurances to the State of Alabama Emergency Management Agency and the Federal Emergency Management Agency, requesting HMGP funds in an exact amount not to exceed \$301,500.00; and

THAT, the City of Athens hereby obligates to provide up to \$100,500.00 in cash match in order to complete the proposed mitigation project;

THAT, the City of Athens, Alabama, hereby guarantees that such local non-federal share funds will be available upon receipt of an HMGP State-Subgrantee Disaster Assistance Agreement for the Period of Performance specified therein; and

THAT, William R. Marks, be and is hereby designated and appointed as Administrative/Financial Officer under the terms and pursuant to the provisions of the HMGP State-Subgrantee Disaster Assistance Agreement, and is directed and empowered to make necessary assurances and to perform on behalf of the City of Athens, Alabama those acts and assume such duties as are consistent with said position.

ADOPTED and APPROVED this, the 25th day of July, 2011.

/s/ Jimmy W. Gill
PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

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

ATTEST:

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

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

Councilwoman Caudle introduced the following resolution:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, AL, to authorize the purchase of a 1992 Peterbilt 357 Convention, 18 wheeler, in the amount of \$10,000. It will be bought from the State of Alabama surplus property yard and contingent upon verification of its mechanical condition.

The purchase of this vehicle is to be funded through a “transfer out” from General Fund to the Capital Expenditure Fund, line item 100.527.90112 (transfer out Capital Expenditure Fund).

Councilmember Bowers 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, Hickman, Gill 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 Wales and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Hickman, Gill and Caudle; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

Councilwoman Bowers introduced the following resolution:

RESOLUTION NUMBER 2011-1205

A RESOLUTION CONCERNING TELEPHONE SERVICE TO CITY FACILITIES CONNECTED TO THE CITY AND COUNTY’S FIBER OPTIC NETWORK

WHEREAS, the City Council desires to secure telephone services (including both long-distance and local phone service) for its facilities that are connected to or “inside” the City of Athens and Limestone County’s joint fiber-optic network (the “Fiber-Loop”), to make the maximum use of the network and to realize cost-savings on telephone service;

WHEREAS, the City Council finds that its needs regarding such telephone service inside the “Fiber-Loop” are significantly different from prior needs relating to the existing telephone service used by the City, in that, for example, advanced management and phone features, digital systems, higher degrees of fault tolerance and redundancy, and load balancing are needed;

WHEREAS, the City wishes to cancel its existing telephone service inside the Fiber-Loop with AT&T concerning the following locations/facilities:

- (a) Athens Utilities Headquarters;
- (b) Athens Utilities Customer Service Building;
- (c) Athens City Hall (including fire station);
- (d) Athens Public Works Building; and
- (e) Athens Recreational Center.

WHEREAS, the City Council desires to cancel the City’s existing Earthlink telephone service contract concerning the Athens Police Department, and to enter into a new Earthlink telephone services contract that will result in a physical telephone connection at the Athens Police Department and the Athens Utilities Warehouse, which will, through the Fiber-Loop, enable telephone service at the following locations:

- (a) Athens Utilities Headquarters;
- (b) Athens Utilities Customer Service Building;
- (c) Athens City Hall (including fire station);
- (d) Athens Public Works Building;
- (e) Athens Recreational Center;
- (f) Athens Police Department; and
- (g) Athens Fire Station #1 (upon completion).

WHEREAS, such action will realize cost-savings of approximately \$42,000 per year with respect to the cost of these services; and

WHEREAS, such telephone service with Earthlink for all of the above-referenced locations/facilities will not exceed \$14,500.00 per fiscal year.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that:

Section 1. The Mayor is authorized in the name of and for account of the City of Athens to halt telephone service by AT&T to the locations/facilities specified in this Resolution.

Section 2. The Mayor is further authorized in the name of and for account of the City of Athens to enter into an agreement with Earthlinks for the provision of telephone service to the locations/facilities specified in this Resolution, and to contractually bind the City with respect to the same. The agreement shall be for no more than an initial term of three (3) years and shall not cost in excess of \$14,500.00 per year. The Mayor is further authorized and directed to (i) include in such agreement, such other, further and additional terms for the protection of the City as the Mayor may deem necessary and proper, and (ii) initiate this transaction upon his satisfaction that the City has completed any and all internal work that may be necessary to prepare for the new telecommunications system.

Section 3. The cost of the telephone service referenced in Section 2 of this Resolution will be split equally (50/50) between the General Fund and Athens Utilities.

Section 4. The Mayor is authorized to take actions and execute such other and further documents as may be necessary to effect and carry out the transactions contemplated by this Resolution.

ADOPTED and APPROVED this, the 25th day of July, 2011.

/s/ Jimmy W. Gill
PRESIDENT, CITY COUNCIL,
CITY OF ATHENS, ALABAMA

/s/ William R. Marks
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 a Resolution duly adopted by the City Council of the City of Athens, Alabama, on the ____ day of _____, 2011.

Witness my hand and seal of office this ____ day of _____, 2011.

John Hamilton, City Clerk

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

Councilwoman Bowers moved that they adjourn to go into Executive Session to discuss preliminary negotiations involving matters of trade or commerce in which the Council is in competition with private individuals or entities or other governmental bodies in Alabama or in other states or foreign nations, was seconded by Councilwoman Caudle and was unanimously carried. The City Attorney, Shane Black, noted that an Executive Session for these purposes was authorized under Alabama law.

The Executive Session was closed at 5:20 p.m.

* * *

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

/s/ Jimmy W. Gill
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ John S. Hamilton
CITY CLERK