

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 3, 2011**

Present: Mayor Joe Jerkins
Kirsten Anderson
Trudie Causey
Randy Green
Virginia Reagan
Martin Standard
Scott Thomas

The regular meeting of the Mayor and the City Council was held on Monday, January 3, 2011 at 7:00 P.M. at the City Hall.

Also present were: Scott Kimbrough, City Attorney; Carolyn Duncan, City Clerk; Sandra Farmer, Deputy City Clerk; General Administration; Randy Bowens, Public Works Director; Jim Graham, Community Affairs Director Denise Soesbee, Finance Director; Bob Starrett, Police Chief; Tim Williams, Fire Chief.

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Reverend Marvin “Doc” Frady gave the Invocation and Mayor Jerkins led the Pledge of Allegiance. Mayor Jerkins asked if any Council Member would like to add items to the Agenda. Ms. Reagan stated she would like to add 9D. – Carpet Bid.

Mr. Thomas moved to follow the recommendation of Mayor Jerkins to add the item to the Agenda. Seconded by Ms. Causey. Motion passed (6-0).

2. CONSENT AGENDA – INFORMATION AND UPDATE

(No Action Required by Council – See Specific Department Director before Meeting.)

3. CONSENT AGENDA

- | | |
|---|------------------|
| A. Approve Bills | |
| B. Approve Legal Bills | \$ 2,325.00 |
| C. Approve Minutes of Regular Council Meeting | December 6, 2010 |

Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the Consent Agenda. Second by Ms. Reagan. Motion passed (6-0).

4. EXCEPTION TO CONSENT AGENDA

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5. CITIZENS REPORT

Mayor Jerkins asked if anyone would like to speak to the Mayor and Council. No one spoke. Mayor Jerkins stated we have a Proclamation to present to Carolyn Bridges who is with Family Resources. Mayor Jerkins read the Proclamation and presented it to Ms. Bridges.

Mr. Standard moved to follow the recommendation of Mayor Jerkins to approve the Proclamation. Seconded by Ms. Reagan. Motion passed (6-0).

6. GAS SYSTEM REPRESENTATIVE

JOE JERKINS

Mr. Kimbrough stated the last meeting we had was in November and there was no meeting in December, 2010. The system is in good financial position to begin to pay towards some of the bonds that are outstanding early which they are doing this week.

7. FINANCE DEPARTMENT

VIRGINIA REAGAN, CHAIRPERSON

Denise Soesbee, Director

A. Financial Report

8. GENERAL ADMINISTRATION

KIRSTEN ANDERSON, CHAIRPERSON

Carolyn Duncan, Director

A. No Report

9. POLICE DEPARTMENT

VIRGINIA REAGAN, CHAIRPERSON

Bob Starrett, Police Chief

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- A. Police Report
- B. Code Enforcement Report
- C. Privilege License for 2011

Ms. Reagan stated there is a copy of the listing of the Privilege License. (Please see attached).

Ms. Reagan moved to follow the recommendation of the Police Committee to approve the Privilege Licenses for 2011. Seconded by Mr. Thomas. Motion passed (6-0).

- D. Carpet Bids

Ms. Reagan stated the Police Department has received bids for carpet replacement, after Steve Shields from Local Government Risk and Management recommended we replace worn carpet. Three bids were requested. Ram Flooring, Inc., Atlanta West Carpets, Inc., and T.J. Sosebee formally Dalton Carpet Sales, Inc. Bids are attached. The bids are attached and the Police Committee recommends the lowest bid which was Atlanta West Carpets, Inc. The sub-total for the carpet is \$5,420.53. The option price for moving the furniture and equipment during installation is \$1,075.00. We may be able to save the \$1,075.00 if we use the inmates to move the furniture. The total price will be \$6,495.53.

Ms. Reagan moved to follow the recommendation of the Police Committee to approve the bid from Atlanta West Carpets, Inc. Seconded by Mr. Standard. Motion passed (6-0).

Mayor Jerkins asked if anyone had any questions. Mr. Standard stated he had one question. One of the bids states four hundred and twenty eight square yards. The other bid says and I can't see where it states any. And, the other one says it looks like four hundred and twenty and I am just asking how much is it. Chief Starrett stated we asked them the same question and had them measure the same room. One of the companies explained it they are measuring at twelve foot and they don't use or need as much.

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If they measure at fifteen foot they have a lot of extra carpet. This is how they explained it to me. Mr. Standard stated I am just making sure we are oranges to oranges. Mr. Standard asked if this carpet was for all the office. Chief Starrett stated it is for the offices that have carpet now.

**10. FIRE DEPARTMENT
SCOTT THOMAS, CHAIRPERSON
Tim Williams, Fire Chief**

- A. Fire Report
- B. Unsafe Building Update

Mr. Thomas stated at this time he would like to turn this over to Chief Williams. Chief Williams stated the Brooks Drive property, as I mentioned at the pre-agenda meeting in December, this property was purchased by the City of Austell as part of the Flood Buy Back program. Cleanup and demolition of the structure will be under way as soon as possible.

The Mulberry Street property, Mr. Perry was given six months to complete renovations on this structure. Mr. Perry was given an additional citation and this is the second citation. He is set for a court date at the end of this month. Mr. Kimbrough stated to Chief Williams he thought at one time Mr. Reynolds was going to be Mr. Perry's attorney. I spoke with Mr. Reynolds back in December and he knew nothing about it. He may have since retained Mr. Reynolds but as of December Mr. Reynolds is not on the case.

Mr. Kimbrough stated he would like to give an update on the Hans Moise property on Veterans Memorial. I spoke with Bill Fields today who is his attorney and that case is under appeal. However, once you file an appeal, you also have to pay for the transcript of the case to be sent up to the Court of Appeals. That is about two thousand dollars in this case. Mr. Fields has sent certified letters to Mr. Moise and made telephone calls and has heard nothing from Mr. Moise. You have about thirty to forty-five days to pay that cost for the transcript or the appeal will be dismissed. Mr. Fields basically said he is waiting for the letter from the Court of Appeals stating it will be dismissed.

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They will try again tomorrow to get in touch with Mr. Moise. As soon as the appeal is dismissed and is no longer under judicial review, then we can proceed with the citations. Chief Starrett stated we are having the same problem because we cannot locate him. Mr. Kimbrough stated we will cross that bridge when we come to it because we definitely have to locate the property owner.

11. PUBLIC WORKS DEPARTMENT

MARTIN STANDARD, CHAIRPERSON

Randy Bowens, Director

A. Adoption of 2011 Water Rate Schedule

Mr. Standard stated it is the recommendation of the Public Works Committee to adopt the following water rate increases as proposed by Keck and Wood, Inc. to become effective January 1, 2011. The governmental contractual water rate would be increased by 8 percent, or 16 cents, per 1,000 gallons.

The City's water and sewer revenue bonds have been fully retired thus eliminating the obligation for debt service coverage of 20 percent above the debt service, operations, and maintenance costs for the water system. Without the coverage factor, water rates should be adjusted upward 16 cents per 1,000 gallons to recognize the latest changes to Cobb County-Marietta Water Authority's rates.

Inside City:

	<u>Current</u>	<u>Proposed</u>
First 2,000 gallons (minimum bill)	\$6.52	\$6.84
2,001 gallons to 7,000 gallons	\$3.33	\$3.49
7,001 gallons to 15,000 gallons	\$3.96	\$4.12
15,001 gallons and above	\$5.86	\$6.02

Outside City:

	<u>Current</u>	<u>Proposed</u>
First 2,000 gallons (minimum bill)	\$7.02	\$7.34
2,001 gallons to 7,000 gallons	\$3.58	\$3.74
7,001 gallons to 15,000 gallons	\$4.27	\$4.43
15,001 gallons and above	\$6.36	\$6.52

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Austell Box Board Corporation:

	<u>Current</u>	<u>Proposed</u>
First 2,000 gallons (minimum bill)	\$6.52	\$6.84
2,001 gallons to 7,000 gallons	\$3.33	\$3.49
7,001 gallons to 15,000 gallons	\$3.96	\$4.12
15,001 gallons and above	\$5.86	\$6.02

The rate schedule above is based on the required Metropolitan North Georgia Water Planning District's Water Supply and Water Conservation Management Plan's three-tiered rate structure. The purpose of this structure is to encourage water conservation.

Mr. Standard moved to follow the recommendation of the Public Works Committee to approve the Adoption of 2011 Water Rate Increase Schedule. Seconded by Ms. Reagan. Motion passed (6-0).

B. Adoption of 2011 Wastewater Rate Schedule

Mr. Standard stated it is the recommendation of the Public Works Committee to adopt the following wastewater rate increases as proposed by Keck and Wood, Inc. to become effective January 1, 2011. The governmental contractual wastewater rate would be increased by 4 percent per 1,000 gallons. Therefore, the proposed rates would be adjusted upward 16 cents per 1,000.

The City's water and sewer revenue bonds have been fully retired thus eliminating the obligation for debt service coverage of 20 percent above the debt service, operations, and maintenance costs for the water system. Without the coverage factor, wastewater rates should be adjusted upward an additional 16 cents per 1,000 gallons to recognize the latest changes to Cobb County Water System's rates.

	<u>Current</u>	<u>Proposed</u>
Inside City (Per 1,000 Gallons)	\$5.67	\$5.83
Outside City (Per 1,000 Gallons)	\$5.93	\$6.09
Austell Box Board Corporation	\$5.67	\$5.83

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Mr. Standard moved to follow the recommendation of the Public Works Committee to approve the Adoption of the 2011 Wastewater Rate Schedule. Seconded by Mr. Thomas. Motion passed (6-0).

C. Adoption of Cobb County Pre-Disaster Mitigation Plan

Mr. Standard stated the Georgia Emergency Management Agency and the Federal Emergency Management Agency require each county in the State of Georgia to develop a Pre-Disaster Mitigation Plan. The purpose of this in-depth plan is to identify natural and human-caused disasters, to compile a detailed inventory of critical facilities, to assess potential losses, and to develop mitigation goals and objectives. The goals and objectives provide a baseline for justification of, and to meet eligibility requirements for future pre-disaster mitigation grant funding.

This plan is a result of a collaborative effort between Cobb County and its six cities. A committee, that included representatives from Cobb County and its six cities, provided leadership, support, guidance, and approvals during the preparation of the plan.

Mr. Standard moved to follow the recommendation of the Public Works Committee to approve the Adoption of Cobb County Pre-Disaster Mitigation Plan. Seconded by Ms. Causey. Motion passed (6-0).

D. Adoption of Outdoor Landscape Watering Ordinance (SB 370)

Mr. Standard stated it is the recommendation of the Public Works Committee to approve the Outdoor Landscape Watering ordinance to become effective upon adoption by the Mayor and City Council, and to authorize the Mayor, City Clerk and the City Attorney to sign the names.

Basically, the General Assembly of the State of Georgia is requiring all counties and cities in Georgia to adopt an ordinance to be in effect to allow outdoor watering of landscape between the hours of 4:00 P.M. and 10:00 A.M. (with certain exceptions).

Mr. Standard moved to follow the recommendation of the Public Works Committee to approve the Adoption of Outdoor Landscape Watering Ordinance (SB 370). Seconded by Ms. Causey. Motion passed (6-0).

12. PARKS DEPARTMENT

RANDY GREEN, CHAIRPERSON
Jim Graham, Director

- A. No Report

13. COMMUNITY DEVELOPMENT DEPARTMENT

TRUDIE CAUSEY, CHAIRPERSON
Jim Graham, Director

- A. No Report

14. CITY ATTORNEY – DUPREE & KIMBROUGH

- A. No Report

15. MAYOR'S REPORT

A. CMA MEETING	JANUARY 11, 2011
TIME:	6:30 P.M.
LOCATION:	COBB CHAMBER

- B. Council Committee – Assignments

Mayor Jerkins stated the Assignments will remain the same.

- C. Appointment for Judge David Darden

Mayor Jerkins stated Judge Nix has retired and we need to appoint Judge Darden as our new Judge. Judge Darden has already been sworn in some time ago.

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Mr. Green moved to follow the recommendation of Mayor Jerkins to appoint Judge David Darden as the City of Austell's Judge. Seconded by Mr. Standard. Motion passed (6-0).

D. Approval for Associate Judge – Steve Woodman

Mr. Green moved to follow the recommendation of Mayor Jerkins to approve Steve Woodman for the Associate Judge. Seconded by Mr. Thomas. Motion passed (6-0).

E. Proclamation – The Center For Family Resources

The Proclamation was presented at the beginning of the meeting.

Mayor Jerkins asked if anyone had any questions or concerns. Ms. Reagan stated she had a question on the new Comprehensive Zoning Ordinance. We approved this Ordinance with no tractor trailers or heavy equipment over ten thousand pounds being parked in residential zoning. In the new book that ten thousand pounds was taken out. You can't do that without having an amendment to do so. We need something to describe heavy equipment. Mayor Jerkins stated Ms. Reagan said when it was voted on it was in there and taken out later, is this correct. Mr. Graham stated when the book was adopted it was in there. At the request of a council person it was taken out. Everyone was presented a new copy before pre-agenda this is the one we would adopt. Mr. Standard asked so, the first one you gave to us it was in there but when we voted it was taken out. Ms. Reagan stated she did not get a new until tonight. Mr. Green stated this is why I said something last week you change things and notify no one. Mr. Graham stated everyone received a new book tonight and this will waive the draft copy. Ms. Reagan stated not everyone Ms. Duncan did not receive one. Ms. Duncan stated she had the same book that Ms. Reagan has. Mr. Graham stated he did not know what happened because he didn't personally lay the books down. Ms. Reagan stated she understood. Mr. Graham stated instead of collecting the draft copies we just distributed new manuals. Mayor Jerkins stated with the ten thousand pounds taken it has created a problem because we do not know what heavy equipment is. One way or the other we have to figure out what heavy equipment is. Mr. Standard asked is the definition of commercial equipment a total weight of over a ton and a half. Mr. Graham stated 26,000 pounds. Mr. Standard stated isn't there something in there about a commercial vehicle that you can only have a ton and a half.

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That is a vehicle not a trailer, like a pickup truck. Ms. Duncan stated a ton is two thousand pounds. Mr. Kimbrough stated it is a vehicle with towing capacity of a ton and a half. Mr. Standard stated not the weight of the vehicle. Mr. Kimbrough stated so the vehicle would actually be larger. Mr. Kimbrough stated anytime anyone wants to propose an amendment to any ordinance that is in place you can certainly do that. Mr. Green stated so that would be heavy equipment if it totals over a ton and a half. We would have to go through the process of advertising because we are dealing with a zoning law and that can be done at any time. Mr. Graham stated we certainly did what we were directed to do, but you have to have something to go by. Ms. Reagan agreed. Mr. Green stated his little Ford pickup truck has a towing capacity of six thousand pounds. Does that make it a commercial vehicle? Mayor Jerkins stated it would be heavy equipment and this is what we are trying to determine. Mr. Standard stated and if it does, you can have one but not three in your yard. Mr. Green asked, so I couldn't have three pickup trucks in my yard? Mr. Standard stated no, not if they have Joe's Plumbing on the side of them. Mayor Jerkins stated that is a different situation and you are getting off of the heavy equipment part. Mr. Graham stated, yes, sir, that is a different animal because if you work for AT&T you are allowed to drive your vehicle home. Mr. Green stated even though it has a six thousand pound capacity you are allowed to drive it home. We need to define this because there will be all kinds of people up in our face wanting an explanation over an ordinance we know nothing about. Mr. Green stated the Code Enforcement Officer will be aggravated and we already have had one to quit, so we certainly don't want another one to leave too. Mr. Kimbrough stated it sounds like we need an amendment for the February agenda meeting. Mr. Green stated it sounds like we need to go through the whole entire ordinance book all six of us. Like we were talking about and let's meet and make it like it's supposed to be. Mr. Standard stated he agreed. Mr. Graham stated to be fair with my staff, we did have a list of changes we put in there. Ms. Reagan stated she had that list in the rough draft. Mr. Graham stated we did do this so you wouldn't have to read every single word in the manual. Ms. Reagan stated she found two items under R-80 and it is under "F" use limitation and that one I just read. Under "G" it has RV's, trailers, boats and the likes shall not be allowed to be parked beyond the front building line or allowed in the front yards and must be on a hardened surface. Mr. Graham stated this has been a rule for a long time. Ms. Reagan stated I know that, but these items were added and not on the list. Mr. Graham stated it should have been in the old book. Ms. Reagan stated it was not in the old book.

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Mr. Graham stated to Ms. Reagan the reason we did the book like this is because a lot of the things that were passed are not in the book. So, if it was already approved we didn't really call that a change. Ms. Reagan stated she understood. Mr. Graham stated a lot of it was a cleanup of over twelve years and no one had a complete copy of it. The parking lot was approved back in 2004 so we don't have to take it through Planning and Zoning to make a change. We have given everyone a copy including Planning and Zoning. Most of the changes in there came from other cities and counties because we always mirror the county every time we get a chance. Ms. Reagan stated under the group homes you have handicapped persons and the county says disabled persons. It has been changed and it should remain the same as it was. Mr. Graham stated one thing we looked at Marietta's and we could have gotten them confused. Ms. Reagan stated Cobb County listed theirs as disabled. We will change that and one thing we did add and Cobb County didn't have and Marietta did was the Special Land Use and as long as it is not challenged in court it is legal and the City of Marietta put it in. Ms. Reagan asked what are seasonal items. Mr. Standard stated it was Christmas trees, pine straw, etc. Ms. Reagan stated the only thing she had found was under the County was agriculture, nursery items, produce, camping staples and fishing lakes. Even ours says under description says fishing lakes are seasonal. Mr. Graham asked doesn't ours basically say what Cobb states. Ms. Reagan stated, yes it does. Mr. Graham stated in the past unless the council has changed it is mirror Cobb County. Sometimes, theirs doesn't make sense to me either. I know in some towns they have paid fishing but not the City of Austell. I guess in the winter months they close them. Ms. Reagan stated that was Cobb's definition. Mr. Graham stated again, that is why we tried to mirror Cobb's. Unless you want something changed and we will be glad to do it. Ms. Reagan stated, no, I just wanted a description of seasonal items. Mr. Graham stated anything you see that you would like amended please let us know and we will do the research. We do have to identify seasonal, and we do have to identify commercial buildings. Mr. Kimbrough asked Ms. Reagan are you talking about seasonal items that can be put out in front of stores for sale under the new ordinance. Ms. Reagan stated that is what I am talking about its not plain. Chief Starrett stated to Mr. Kimbrough this was one of things on the listing I gave you to review. Mr. Graham stated I believe that Cobb's intent was nurseries and etc. Mr. Green asked if antiques would be a seasonal item. Mr. Graham stated, no it would not. Mr. Green asked why are we doing things different because you can go downtown Marietta and see all kinds of items on the street.

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The Police don't say anything about this. Mr. Graham stated he did not know what Marietta's ordinance says about that. Mr. Graham stated he doesn't know what the Mayor of Marietta says about this and that's not my call. Mr. Green stated this is what I am saying a lot of towns use this to sell more products in these big nice towns and we are going to distinguish a difference from what they do. Ms. Causey stated they don't have their sidewalks cluttered and they might have something to advertise for someone to come in but Marietta's sidewalks are not cluttered. Mr. Green stated so if they have a restaurant and have tables sitting outside they are not made to take them up. The point is these businesses are trying to work and make money and then you start trying to tell them they can't advertise and these businesses are going to leave our city and go to Marietta and other places. Then we will be like a ghost town because we will not have enough people to come in and buy a cup of coffee. Ms. Causey stated we don't have that now. Mr. Green stated I think we do and do you want Burger King to close down because no one comes by. Ms. Causey stated I don't think that would happen. Mr. Green stated well, Burger King is a well known establishment. But, you will have Mom and Pop stores leaving if you run all the business off and there will be no reason for anyone to come to Austell. Ms. Causey stated well, if we don't clean up. Mr. Green stated that's not cleaning up then Marietta should clean up. Mr. Green stated ordinances are made to keep people from doing irate things and not for people to walk the line. Mr. Graham stated Marietta may have to have some kind of variance from Cobb, I don't know but you just tell me what you want me to do and I will do it. We mirror Cobb but I will happy to call Marietta and see how they do it and their verbiage on theirs. Mr. Green stated he thought we need to leave the businesses alone right now while they are struggling and trying to pay the rent and so they will not leave our city and go somewhere else. Mr. Graham stated all we can do is whatever you want us to do. Mr. Thomas stated we definitely need to define these things so it will be clear. Mr. Standard stated if a guy changing a transmission in front of his shop right beside the sidewalk and I am thinking it is not legal. Mr. Green asked does he do it all the time. Mr. Standard stated is he advertising or just working on a transmission. Mr. Green asked again, does he do this every day and if so this is what I am talking about you need to talk to him. It would not be making him walk the line. Mr. Graham stated that is illegal because all the work should be done inside. Even one day he shouldn't be taking out a transmission. Mr. Green stated well, that is a different circumstance.

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Mr. Graham stated, again, anything the six of you and the Mayor would like us to do we will do it and we are open for suggestions. I have tried to look up definitions for heavy equipment and in the dictionary there is no such definition. Mr. Graham stated you have to have some definition for a riding lawn mower, push mower, skid loader, and there has to be a tonnage something to guide Code Enforcement. Mr. Thomas stated so the Code Enforcer cannot misinterpret the code. We have tried to look at the manual and correct everything and because it has taken so long to complete. Mr. Thomas stated Mr. Graham you have done a good job. Mr. Graham stated we only do what we are told to do and we cannot sneak an ordinance in without you voting on it. Some of this has been passed for twelve years by a lot of different Council members so that Code Enforcement would have a clear idea of the ordinances and a lot of it was missing. From now on every time we do an amendment we will make sure you know that is an amendment and where it needs to go in your book. The only intent of cleaning up this book is because so all is not scattered like it was before. We put a few new things that we really wanted to see that was in the Code Book and it was the alcohol ordinance. Mr. Green stated which leads us back to we need to set up some times week to week whatever it takes to discuss the ordinance book even if it is a piece at a time so that we are all happy with it. Like I said you need to take into consideration the public of the individual people and what they have to go through to live everyday life and what a business owner has to go through to keep his business. This is not a good time to push people. Mr. Thomas stated there is another concern on page twenty-three, section 22-11 non-conforming uses. Ms. Reagan asked what is non conforming uses that exists legally prior to the adoption of changes. Mr. Graham stated the true definition of grandfathered in. It is called legal non-conforming use and this is the technical name for it and we took grandfathered out of it because in the past years it was in parentheses. Mr. Graham stated what it's talking about is the adoption of these things taking place at the time and approved they would be illegal non-conforming use. We have it all over the city where we have duplexes and they are not zoned duplexes. Ms. Reagan stated it also says it is the intent over time all non conforming uses will be eliminated. Mr. Thomas stated it also says in paragraph two non conforming uses may continue only in the original building structure or abandoned area that was originally occupied. Mr. Graham stated if a car lot goes vacant and we have a situation now beside Charlie James right now. The car lot is sitting there vacant over six months and legally you can opt not to renew that as a legal non conforming use.

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Ms. Causey stated basically now they are using that as an impound lot. Mr. Graham stated that is correct. Mr. Thomas stated that is what it looks like they are doing. Chief Starrett stated he had talked to him about it and to move the wrecked cars and I told him to move all of them and he refused to move the ones not wrecked because it has always been a car lot and it would be illegal if we charged him. Mr. Standard stated isn't there a difference between selling cars and trading cars or just storing cars. Mr. Green stated grandfather clause changes if business changes its business. Does that particular piece of land and business continue or was there a break of six months in the beginning. Mr. Graham stated if it stays vacant six months or over and ya'll need to make that decision. I don't make that decision and when it comes before you to approve or disapprove the use. If that use has been in there since the nineties and the grandfather clause has been in there way before I came to the City of Austell. Mr. Green stated the city has a lot of car lots. Mr. Graham stated that is the reason we put the fifteen hundred foot space to keep them from coming into the central business district. Mr. Green stated now you have land owners with those car lots and now all of a sudden you can't use them as a car lot and they are not real appealing for something else. Mr. Graham stated the subject in question about Kelley Cars impound lot or repro lot I spoke with the owner last year or maybe the year before when he bought the property and he told me then he wasn't going to put a car lot there. He was going to try to sell it commercial for a fast food or something like that and I encouraged him and told him it was a great idea. I told him I was tired of seeing car lots in Austell. He let it sit and the economy got bad and he couldn't sell it and I know why he did and now he needs a place for his repossessed cars and repossession is nothing but impound. Mr. Kimbrough stated it is nothing but storage. Chief Starrett stated Mr. Kimbrough is researching this. Mr. Graham stated that's a legal opinion and zoning is only good if the legalities hold up. Until you have a court case and it says it is not constitutional. Mr. Kimbrough can tell you more about that than me. Basically, that has been in place for years the fifteen hundred foot space in the grandfather clause. Mr. Kimbrough stated to Mr. Green that this doesn't mean they can't operate another car lot out of that location and the Council has to vote on whether they can or can't if it has been abandoned more than six months. Mr. Green stated in some cases it's hard to have to a place like that if you are leasing out and finding out you can't lease it and you are stuck with the building. Possibly, you could change it into something else.

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Mr. Standard stated you can't just do the same thing and expect things to get better you have to draw the line sooner or later and we need to progress from car lots. Mr. Graham stated the option is up to you to make that decision. It is not my decision nor my departments to make that decision. In my opinion I think what he is doing is impounding and repossession is the same thing, but until we get a legal opinion it will be hard to enforce it. Ms. Anderson stated she had a question, this came up when Willie was trying to get the property he wanted. Do we not allow impounding cars or storage in the city? Mr. Graham stated it depends on the zoning but not in general commercial. Ms. Causey stated we also have that place next to Cleveland Brown's place and they have tow trucks down there and it is general commercial and something needs to be done about it. Ms. Reagan asked were the tow trucks to get out and run up and down the road or what? Chief Starrett stated we spoke with them last week and they should have moved. Ms. Causey stated she went by there yesterday and they had two out there. Chief Starrett stated they told us they had leased it and we told them they couldn't park in there. I talked to Kathy and she said they were only going to use that building for their office. To my understanding they were told they could not have vehicles on the premises. They had actually impounded some cars there as well. Mr. Graham stated it is a big thing selling cars on the internet and they are approved for an office but to get their State permit they have to have a car lot. We will never approve a car lot. We write on the business license "For Office Use Only". We have told many of them if they park a car out there and we see a for sale sign it is a violation of zoning. They will be impounded or you get a ticket for it. They do it all the time and they are told when we sign off of the business license. We try! Mr. Thomas stated to Mr. Graham what a good job he was doing. Mr. Green asked what time or night of the week can start the meetings to work on the ordinance book. Mayor Jerkins stated he would suggest Mr. Kimbrough attend the meeting. You will get back in the same situation if you don't have some legal advice. Mr. Green stated I know we need Jim there. Mr. Standard suggested maybe if each of us write two or three things we are confused about to address those instead of doing the whole thing at one time. Chief Starrett stated Mr. Kimbrough has the list of everything to be discussed and he is going to get back with me hopefully in the next week or so. Mr. Graham stated while Mr. Kimbrough is working on that end we are trying to check with Cobb or any of the cities classify as commercial heavy equipment and what their definitions are. Mr. Green stated regardless of Cobb County's we need to make our own.

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They are getting out of control on some of the ordinances. Mayor Jerkins stated if you don't go by something then tell me what heavy equipment is. Ms. Causey stated you don't need it in residential areas and that's the problem and I have received a lot of complaints. Mr. Standard asked do we have a minimum that we have to stay within the counties. Mr. Graham stated no, we just mirror the county. Mr. Standard stated so the county can't come into the city and tell us because of the county rule you can't do something. Mr. Graham stated no, they can't do that. A lot of State rules do supersede ours especially on a code book. Cobb County will not come in Austell and tell us what to do. Mr. Standard stated he thought Smyrna could help us in this area because of how far they have come in the last ten years. Maybe call it commercial and not heavy equipment because heavy is commercial. Mr. Graham stated I know Ms. Reagan and Mayor Jerkins will remember the reason the poundage was put on their because of the tractor trailers being part of the business owners. We stop that because of people buying their own rigs and trying to park them in the subdivisions. Zoning changes every year because of different situations. We try to keep up with it and we try to do as you direct us to do. When you do direct us to do something we call Mr. Kimbrough to see if it is legal. This manual we did not make that many changes on but the last manual in 1998 the whole entire book was looked at by Moore and Roberts to see if we were legal and of what we were putting in. Mr. Standard stated that was kind of going from rural to suburban. Mr. Graham stated and if you pass an ordinance that is what the City Attorney is for to make sure it is legal. Mr. Thomas stated before he makes a motion to adjourn Ms. Reagan has a question to ask. Ms. Reagan asked these books replace the old ones correct? Mr. Graham stated it replaces the old and the draft copy. Ms. Reagan stated my old blue book had permit fees and sign ordinances in it. Mr. Graham asked does your new one have it and if not make me a list of everything and I will replace it. Mr. Green asked so are we going to start meeting or we going to postpone it and meet later. Mayor Jerkins stated you will be just sitting there talking about it back and forth so there is no point to it. Mr. Graham stated when we find something and we have questions we will send to Mr. Kimbrough.

16. ADJOURN

Mr. Thomas moved to follow the recommendations of Mayor Jerkins to adjourn the meeting. Seconded by Mr. Standard. (6-0).

