

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014**

**Present:** Mayor Joe Jerkins  
Kirsten Anderson  
Ollie Clemons  
Randy Green  
Virginia Reagan  
Scott Thomas  
Suzanne Thomason

The regular Meeting of the Mayor and City Council was held on Monday, January 6, 2014 at 7:00 PM at City Hall.

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

**1. CALL TO ORDER**

Mayor Jerkins called the meeting to order, Pastor John Bailey gave the Invocation and Mayor Jerkins led the Pledge of Allegiance.

Mayor Jerkins asked the Council Members if they had any items to add to the Agenda. Scott Kimbrough added Item 14-A: Approval of an agreement between the City of Austell and Land Investment Partners for paving streets in the Stonebrook Subdivision. Motion to add item to the Agenda by Virginia Reagan; Second by Ollie Clemons. The Mayor asked if there were any questions. There were none. The 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**

**\$2,165.50**

**C. Approve Minutes of Regular Council Meeting**

**December 2, 2013**

Mayor Jerkins asked if there were any questions on the Consent Agenda Items A, B and C. There were no questions. *Scott Thomas moved to approve the Consent Agenda. The motion was seconded by Virginia Reagan. The motion passed 6-0*

**4. EXECPTION TO CONSENT AGENDA**

**5. CITIZENS REPORT**

Mayor Jerkins asked if anyone would like to speak to the Mayor and Council. Ms. Trudie

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014**

**Page 2**

Causey came forward to speak. Ms. Causey congratulated Mr. Clemons on his campaign and then asked several questions of the Directors.

She Asked Randy Bowens how many houses are still to be taken down from the flood and when will they be removed. She also enquired about the signs on Perkerson Mill He responded currently eight houses have been purchased by the City that will come down around the end of the month and that there are eleven more houses to be acquired. Mr. Bowens stated that they were confirming the spelling with the County to make sure the spelling is correct. After consulting old maps, he stated that her spelling was correct. Questions about the VMH sign have been turned over to the state DOT.

Ms. Causey asked Jim Graham when the proposed fence on Broad St. would be erected. He said it will be a few months.

She asked Ms. Soesbee about the outstanding back taxes. Ms. Soesbee replied that she is waiting on the totals from reports indicating which taxes have been paid. Ms. Causey then asked City Attorney Scott Kimbrough if the city had to go through him to file liens or could the finance department do that without having to pay an attorney. He responded that he will verify the procedure.

The next person to speak was Alvin Poole who stated that he was born in Austell and has been a lifelong resident. Mr. Pool still lives in Babyland, the area where he grew up, He said Babyland is one of the last black communities in Austell, and things have changed in his community. At one time, neighbors cared for each other and everyone in the community got along. Now, it is dangerous to even walk down the street. We need help to put our neighborhood back, he said. He said the Pine Street corner is dangerous. It's not the residents, the problem is people from outside are taking over our area making it a hood and not a neighborhood, and we don't want that. He asked the Council to please help them get their neighborhood back so the children will be safe, and thanked the Council for their time.

Mayor Jerkins thanked Mr. Poole for his comments and said the city is working on the situation. He said he couldn't say a lot about what is being done, but assured Mr. Pool that the Council is aware of the situation. He did say that one person is in jail right now, and there are some more things working. The Mayor asked Police Chief Bob Starrett to speak about what happened Thursday night.

According to Chief Starrett, three people were shot on Thursday night, one seriously .There have been other shootings in the area. Chief Starrett said that he works continuously in that area, but can't convince the residents to identify the ones breaking the law. He said that people in the area don't like being stopped by officers, but we have to do something to stop

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014**

**Page 3**

the drug dealing. Chief Starrett said he knows that Mr. Poole is concerned and there are others that are concerned as well, and it will take cooperation from the residents who know. He said that the Cobb County C.O.B.R.A. unit will be working the area, taking action to search vehicles. If you hear that we are harassing the neighborhood, just know that we are trying to make a difference.

Mr. Poole asked is it legal for them to assemble there and burn in those large barrels all night long? Chief Starrett responded that the city tried to purchase the lot across the street, but there were many complaints and the sale did not go through. The owners of the apartments are trying to take action, but their tenants do have a right to gather. We are trying to work with them, but in the next few weeks we are going to take stronger action to keep people safe. If you can get anyone to work with us, I am available 24 hours a day.

A lady who has moved back into the area stood and agreed with Mr. Poole. She came back to Austell after 30 years and does not want her children in that environment.

Ms. Kirsten Anderson commented that the apartments have been a problem for a while. A lot of the people gathered in groups do not live in the apartments, but claim to be guests. She agreed with Chief Starrett that something has to be done. She said that when the Police go into the area, her telephone “rings off the hook” with people complaining about harassment, and then she calls the Chief to find out what is going on. She agrees that unity needs to return but has to come from the community.

Minister Larry Bates from Greater St. Paul said that he has gotten calls and the churches are also trying to get involved. He said he received a call that the city is bringing the wood for the burning. Is that true?

Ms. Anderson responded that the city is not providing wood.

The pastor said this situation would not work in another neighborhood. He said if you have to take people down, do it.

The Chief said the city cannot deny people their rights so it is a fine line.

Minister Bates stated that his church and others as well would like to make a difference and work in the neighborhood.

Mayor Jerkins asked if anyone else would like to speak to the Council. No one responded

**6. GAS SYSTEM REPRESENTATIVE  
JOE JERKINS**

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014  
Page 4**

Mayor Jerkins stated that the Gas Board did not meet this month.

**7. FINANCE DEPARTMENT  
VIRNINIA REAGAN, CHAIRPERSON  
Denise Soesbee, Director**

A. Financial Report

Ms. Reagan said that the Financial Report is on the table and there is no other business at this time.

**8. GENERAL ADMINISTRATION  
KIRSEN ANDERSON, CHAIRPERSON  
Carolyn Duncan, Director**

A. Ratify Election Results

Ms. Anderson stated that the first item is to ratify the election results of the General Election on November 5, 2013 and the Election on December 3, 2013. *Ms. Anderson moved to accept the results. The motion was seconded by Scott Thomas. The motion passed 6-0.*

B. 2014 City Directory and Calendar

The second item is the 2014 City Directory and Calendar. If you have any additions or corrections, please notify Carolyn Duncan. *Ms. Anderson moved to accept the City Directory and Calendar pending any changes. The motion was seconded by Ms. Reagan. The motion passed 6-0.*

**9. POLICE DEPARTMENT  
VIRGINIA REAGAN, CHAIRPERSON  
Bob Starrett, Police Chief**

A. Police Report

B. Code Enforcement Report

C. Privilege License for 2014

Ms. Reagan stated that the list of businesses will be attached to a copy of the Minutes for the record and we need a vote to approve the list. Chief Starrett noted that we are waiting on some of the renewals to come in, so this would be contingent on the final information received. However, the list includes all of the current businesses and we don't anticipate any problems. *Ms. Reagan moved to approve the list. The motion was seconded by Scott Thomas. The motion passed 6-0.*

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014  
Page 5**

**10. FIRE DEPARTMENT  
RANDY GREEN, CHAIRMAN  
Tim Williams, Fire Chief**

A. Fire Report

Mr. Green stated that the only thing we have this evening is the Fire Report.

**11. PUBLIC WORKS DEPARTMENT  
KIRSTEN ANDERSON, CHAIRPERSON  
Randy Bowens, Director**

A. Adoption of 2014 Water Conservation Rate Schedule

The rate schedule 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 conversation.

Ms. Anderson stated the Public Works Committee recommends the adoption of the following water rate increases as proposed by Keck and Wood, Inc.(A copy of the rate schedule is attached to the Minutes) The rates will be effective January 1, 2014. The governmental contractual water rate would be increased by 4 percent or ten 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 ten cents per 1,000 gallons to recognize the latest changes to Cobb County-Marietta Water Authority's rates.

**12. PARKS DEPARTMENT  
SCOTT THOMAS, CHAIRPERSON  
Jim Graham, Director**

Mr. Thomas stated there is nothing to report this evening.

**13. COMMUNITY DEVELOPMENT DEPARTMENT  
OLLIE CLEMONS, CHAIRPERSON  
Jim Graham, Director**

A. Special Land Use Permit Application from All Saints Anglican Church for property located at 1936 Veterans Memorial Highway.

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014  
Page 6**

The Department of Community Affairs has received a request from All Saints Anglican Church for a Special Land Use Permit on property located at 1936 Veterans Memorial Highway, in LL 1303 of the 19<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County.

The Special Land Use Permit will allow All Saints Anglican Church to operate a church on the above-mentioned property in its current zoning of General Commercial.

The planning and Zoning Commission voted to recommend the Mayor and Council approve All Saints Anglican Church's request on December 17, 2013, (3-2). Mr. Clemons turned the meeting over to Scott Kimbrough for a Public Hearing.

Mr. Kimbrough stated the purpose of the Public Hearing in the matter of a Special Land Use Application for a church. He asked if anyone had signed up to speak in favor of the application. Reverend Ukeke, Pastor of All Saints Anglican Church; Ms Bertha Onyemaobi, President of the congregation and David Brown, owner of the property involved, came forward to speak on behalf of the zoning. Mr. Kimbrough recognized Chrisina Kong, who wished to speak on behalf of her father, Mr. Lee, owner of Café Hot Wings, whose property could be negatively impacted by the proposed zoning. Mr. Kimbrough swore them in. He asked Jim Graham if Ms Kong signed in to speak against the proposed zoning, to which Mr. Graham replied that she had not. At that time, Mr. Kimbrough asked Ms. Kong to have a seat until the group in favor of the proposed zoning presented their side of the issue.

First to speak was Reverend Ukeke. He said this church is new in the area and is part of the new Anglican Church in North America. The congregation is approximately sixty with about thirty children. He stated this location would provide an opportunity to better serve the congregation as well as enlarging their community outreach. He believes this church can make a positive impact on the community. He presented a letter to the Mayor and Council. He asked if any Council member had questions of Reverend Ukeke. There were no questions.

Ms. Onyemaobi came forward to speak on behalf of the church. She said she wanted to support her pastor's comments. She has spoken with people in the community around the property and they believe the church would be a positive influence. None of the Council members had any questions.

Mr. Kimbrough asked Mr. Brown to speak. Mr. Brown gave each of the council members a copy of a small map he had prepared with the location of his property for the purpose of indicating the distance establishments that could be affected where alcohol is sold. Mr. Brown stated he had checked into the required distance from a

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014  
Page 7**

church to an establishment that sells alcohol. He handed out a document indicating concerns that might be raised.

A discussion ensued regarding the allowable distance, according to the City of Austell Code Sec. 3-33. (100 yards from any church, or 200 yards from any school ground or campus) Mr. Graham pointed out that several years ago the State of Georgia set the standard stating that all measurements would be from property line to property line rather than from door to door. Mr. Kimbrough stated that the city cannot be more restrictive than the State's mandate. Mr. Kimbrough asked if any Council member had questions.

There were no questions. He then asked if the Council would be willing to hear from Ms. Kong who is here on behalf of the owner of a property near the location of the proposed zoning. There were no objections. Since Ms. Kong did not sign up to speak, Mr. Kimbrough asked if the Mayor and Council would hear her comments. They agreed.

Ms. Kong stated their business has been in Austell since 1998. They do not sell a large amount of alcohol, but some of their customers do like beer and wine. She stated her father is getting older, and he will retire soon. If the zoning is changed, she thinks her father could sell alcohol now under his name, but any new business would not be able to get a liquor license at this address. The zoning change would affect this business.

Mr. Green asked what is the effect? Mr. Kimbrough stated that under the city's charter and Code of Ordinances currently in effect, if the church were granted permission to open, the restaurant would be in the restricted area going from property line to property line. The liquor license would not be allowed to be transferred. There is no automatic grandfathering. Something else would have to be done.

Mr. Kimbrough asked Mr. Graham if the license could be grandfathered. According to Mr. Graham, it is grandfathered only until the management changes. Then there would have to be another procedure.

Ms. Anderson asked if there are options open to the City to protect the business license? Mr. Graham said there are only 2 ways to do that. We would have to change everything down the VMH corridor into an Enterprise Zone. This would have to be voted on by the Council and then there would be no restrictions. At that time the State would allow the city to set it's own boundaries case by case. The other way is for the Council to allow the business to be grandfathered, but that would only be in effect while the current owner has

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014  
Page 8**

the business. Mr. Kimbrough stated that Austell has never opened an enterprise Zone of this nature.

Mr. Brown stated that since Café Hot Wings does not actually own the building, just the franchise. An option could be for them to sell the franchise and the new owner could relocate. Mr. Green said this could harm the owner of the building.. Mr. Brown said the owner of the building is not present to object and also the building is not in the best of shape. He just wanted to suggest this option with no disrespect intended to the lady. He believes they are not really losing anything.

Ms. Onyemaobi asked to speak again to the Council regarding the church. She said that today someone spoke with several of the business owners in the area and believed the church would be positive and agreed with what they were trying to do. This individual asked if they could sign a petition.

Mr. Kimbrough stated that he may not have been fully aware of the legal situation surrounding your church.

Ms. Kong stated that her cousin owns the Café Hot Wings building. The cousin lives out of the state and could not be here in the meeting. She said they go to church but this would affect their business.

Mr. Kimbrough asked if a Council Member had comments or questions.

Ms. Anderson said she had a question that is relevant to the church. It had been brought to her attention that quite a few sex offenders live at the Efficiency Lodge next to the property in question. She further stated that since the church planned to have children's activities which could be a conflict with the sex offenders. If this is passed, what other conflict would this bring?

Mr. Kimbrough stated that if the church goes into that location, the sex offenders would be displaced. They are grandfathered in for the time of their residential agreement at the end of their designated time. At the end of that time, the Sheriff would go in and remove them.

Mr. Brown interjected that he had spoken with the Efficiency Lodge and that there were only two sex offenders staying there. Mr. Kimbrough responded that the Sheriff keeps track of these situations. Mr. Kimbrough asked if there were other questions. There were none. He stated a motion was needed to close the Public Hearing. *Mr. Thomas moved to close the Public Hearing. The motion was seconded by Mr. Clemons. The motion passed 6-0.*

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014  
Page 9**

Mr. Clemons said, Mr. Mayor, according to the Comprehensive Land Use Plan for the City of Austell's future commercial development, the Community Affairs Department believes that in the best interest of future development for the city, the property should retain the current zoning of General Commercial.

The Mayor asked if there were any further questions. There being none, *Mr. Clemons moved that the council follow the recommendation of the Community Affairs Department to deny the Special Land Use Permit. Mr. Thomas seconded the motion. The motion passed 6-0. It's been turned down.*

There was some confusion in the audience regarding the vote. Mayor Jerkins said the Special Land Use Permit has been turned down. Mr. Brown said he did not understand he thought the Council voted for the church. Ms Reagan said the Council first voted to close the Public Hearing. The motion to accept the zoning change was turned down unanimously. Mayor Jerkins said there would have to be a Special Land Use Permit for the church and that request was turned down.

Mr. Brown asked the reason. Mr. Kimbrough said no reason had been stated and it is not necessary for one to be given.

Mr. Brown then asked if there is any recourse. Mr. Kimbrough stated that the Mayor and Council cannot advise him on that matter.

**B. Member Appointment to the Planning and Zoning Board**

Mr. Clemons stated that the Community Affairs recommends the appointment of Melissa Demelo to replace the seat vacated by Ollie Clemons for the remainder of the term which expires on May 31, 2015. This seat represents Ward 2. *Mr. Clemons moved that the Council follow the recommendation. Mr. Thomas seconded the motion. The motion passed 6-0.*

**14. CITY ATTORNEY, DUPREE & KIMBROUGH**

**A. Approval of Agreement with Land Investment Partners for Stonebrook Subdivision**

As you may recall, last August or September you addressed the issue of having to get this subdivision paved and the topcoat being put on. The original developer is bankrupt. We have an agreement with Land Investment Partners, LLC to do the topcoat paving for the roads. This will be paid for, according to the Ordinance you passed,

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, JANUARY 6, 2014  
Page 10**

by collection of fees at the time building permits are issued in an amount sufficient to cover the cost of the topcoat. This will be done once the final CO is granted. Mr. Kimbrough indicated a motion is needed to accept the recommendation. *Mr. Clemons moved to accept the recommendation. The motion was seconded by Ms. Reagan. The motion passed 6-0.*

**15. MAYOR'S REPORT**

**A. CMA MEETING**

TIME:

LOCATION:

January 14, 2014

6:30 P.M.

Chamber of Commerce

Hosted by Austell

Mayor Jerkins said that Kirsten Anderson will be working with the CMA this year.

**B. Proclamation – Public Awareness of Radon Gas**

Mayor Jerkins said a motion is needed to approve this Proclamation. Mr. Thomas moved to approve and the motion was seconded by Mr. Green. The motion passed 6-0.

**16. ADJOURN**

Mayor Jerkins asked if anyone had additional comments. There being none, the meeting was adjourned.