

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, MAY 2, 2011**

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

Absent: Carolyn Duncan

The regular meeting of the Mayor and the City Council was held on Monday, May 2, 2011 at 7:00 P.M. at the City Hall.

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

1. CALL TO ORDER

Mayor Jerkins called the meeting to order and Pastor Clay Henry gave the Invocation. 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 9E. – Alcohol Serving Permit – Ms. Burgess.

Mr. Thomas moved to follow the recommendation to add Item 9E. Seconded by Mr. Green. 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 \$737.50
- C. Approve Minutes of Regular Council Meeting April 4, 2011

Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the Consent Agenda. Seconded by Ms. Causey. 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. Mr. Lance Lamberton stated he would like to speak. Mr. Lamberton stated he lived in Heritage Place. He stated he didn't know if the Mayor and Council had considered putting the Alcohol Referendum on the ballot or not but I would urge you to do so. There are already articles in the paper about Smyrna and Kennesaw doing it. There is also some discussion about the County doing it as well. If we don't follow their lead we will not be behind the eight ball in a number of areas because people on Sunday will go outside of Austell to purchase alcohol. Whether you are in favor of alcohol being legally sold on Sunday or not I strongly believe the citizens of Austell should have the right to decide. There are also the obvious benefits that would come to the City by additional sales tax revenues because if we don't keep up with our neighbors on that we will lose substantial sales tax revenue. So, I think there are a number of reasons it should be placed on the ballot. Another positive civic reason for it to occur we are going into the municipal elections and having that on the ballot would be increased voter turnout and therefore increase voter involvement in the process of electing the city's leaders in the City of Austell. As a citizen I just wanted to express that view and hopefully put that on the ballot and give us a right to make that choice as citizens of Austell. Mayor Jerkins thanked Mr. Lamberton for his comments. Mayor Jerkins asked if anyone else would like to speak to the Mayor and Council.

Mr. Lamberton stated he had one more thing. Do you have any plans to fix the clock in front of the building? Mayor Jerkins stated we have tried but we can't find a clock man. We have tried and tried to even order a new one but we haven't been able to find anyone.

Mr. Lamberton stated it's not me who I am talking about but someone who lives in our subdivision. He has a neighbor who has a for sale sign on a house on his lawn on the grass which is an ordinance violation and I think this is correct. He is a Police Officer in Kennesaw. He said all you have to do is call the Police and they will come out there and give you a warning and then give you a ticket. Then when he tried to do this in Austell they said you had to go to the Code Enforcement and you had to write out a complaint and you had to sign your name to it. So, the person who you were making the complaint against knew who it was. The situation was resolved, but a few days later there were obscenities spray painted on his vehicle. So, he doesn't know if in fact it was that person because he didn't see the crime being committed.

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I would like for you to look at that complaint form and not have their name signed to it. I am only going on hearsay what this gentleman told me.

Mayor Jerkins stated the complaint form was put in place probably in 1995 I think. The situation we had was one neighbor would get mad at the other neighbor and come up to City Hall and say I don't want my name used but he is doing this and doing that and we would go out there and get into it with the neighbors. One or the other would come back to City Hall and state they didn't want their name used. What it did was keep the City out there all the time trying to solve problems the neighbors had. The Council decided and voted if anyone had a complaint to come in and fill the form and sign their name to it. It would keep the Police busy all the time with people having trouble with one another and on any kind of issues and that was why it was put in place. Mr. Lamberton stated he appreciated the background but you also understand by doing it that way what kind of problems it can create. Mayor Jerkins stated well, if he put the sign in the man's yard the man could have moved the sign. Mr. Lamberton stated he had the car on the lawn. That was the code violation having the car on the lawn. Mayor Jerkins stated I thought you said he had a real estate on the lawn. Mr. Lamberton stated no, he had a For Sale sign on the vehicle on the lawn. Mayor Jerkins stated we do not have a law that says you can't have a For Sale on a vehicle. We do have one that states you can't park on the lawn and it has to be on a hard surface. Mr. Lamberton stated the violation was it was on the lawn. That diminishes the value and quality of the community and it is also against the ordinances and covenants of our subdivision. So, you do understand the problem we are having so please give it some thought folks.

**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mr. Kimbrough stated he attended the meeting on Thursday and just handled the normal business of adopting the applicable gas rate schedule for this billing period.

**7. FINANCE DEPARTMENT
VIRGINIA REAGAN, CHAIRMAN
Denise Soesbee, Director**

A. Financial Report

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B. 1st Reading of the 2011-12 Fiscal Budget

Ms. Reagan stated at this time she would like to turn this over to the City Attorney, Scott Kimbrough for a Public Hearing.

Mr. Kimbrough stated at this time we will call a Public Hearing for the 1st Reading of the 2011-12 Fiscal Budget.

Ms. Reagan stated please find attached a copy of the 2011-12 Preliminary Budget for your review. This document will be presented to Council for vote at the June 6, 2011 Council Meeting. Major economic and financial impacts the City is currently facing are below:

Negative Impacts:

1. Franchise Fees from the Austell Gas System have decreased by \$500,000 due to lower gross sales caused by decreases in customer usage and natural gas prices.
2. Healthcare premium estimates increased 14% which has the potential to cost the City approximately \$80,000. Group insurance estimates assume the increase for family and spouse coverage will be passed on to the employee.
3. Fuel costs increased due to current oil prices costing the City approximately \$30,000.
4. Matching funds for City property damaged by the 2009 Flood as well as matching funds for the HMGP buy-back program for residential properties substantially damaged by the flood.

Positive Impacts:

1. Threadmill rent increased 9% and is now at 90% occupancy.
2. Debt service decreased (\$87,000) largely due to the payoff of the fire truck.
3. Stormwater rate increases will be collected for an entire year for fiscal year 2012 generating \$150,000 of additional revenue.
4. More accurate property tax estimates result in a \$60,000 increase.

For any questions, please contact either Mayor Jerkins or Denise Soesbee.

Mr. Kimbrough stated advertisement was posted in the Marietta Daily Journal as required for the statute of this Public Hearing.

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Mr. Thomas moved to follow the recommendation of Mr. Kimbrough to close the Public Hearing. Seconded by Ms. Anderson. Motion passed (6-0).

8. GENERAL ADMINISTRATION

**KIRSTEN ANDERSON, CHAIRPERSON
Carolyn Duncan, Director**

A. Approval of Additional Solicitor – Melissa Tatum Rife

Ms. Anderson stated from time to time our Court needs the services of an additional Solicitor. We generally have three Solicitors available, but one of our approved Solicitors no longer is able to work with our Court.

Since each Solicitor is approved by Mayor and Council, we ask that you approve Melissa Tatum Rife. Her resume is attached.

Ms. Anderson moved to follow the recommendation of the General Administration Committee to approve Melissa Tatum Rife as an additional Solicitor for Court Services. Seconded by Ms. Reagan. Motion passed (6-0).

9. POLICE DEPARTMENT

**VIRGINIA REAGAN, CHAIRPERSON
Bob Starrett, Police Chief**

A. Police Report

B. Code Enforcement Report

C. Underage Alcohol Hearing – Marathon

Ms. Reagan stated at this time she would like to turn this over to Mr. Kimbrough for a Public Hearing.

Mr. Kimbrough stated he would like to proceed with the Public Hearing for the underage alcohol sales at the Marathon located 5184 Austell Road. Mr. Kimbrough asked who will speak on behalf of the City. Chief Starrett stated he would. Mr. Kimbrough asked who would speak on behalf of Marathon. Mr. Kimbrough swore in both Chief Starrett and the representative from Marathon.

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Ms. Reagan stated on November 22, 2010 the Austell Police Department conducted an alcohol underage compliance check. An employee of Marathon did sell alcohol to a minor. This employee has now completed his court case and at this time the hearing will be conducted on the Marathon.

Chief Starrett stated on November 22, 2010 we conducted an alcohol underage compliance check with the Sheriff's department on all businesses in Austell. The clerk at Marathon did in fact sell alcohol to a nineteen year old minor. Since that time, he was sentenced in our Court and that case has been completed. Mr. Kimbrough asked if anyone had any questions of Chief Starrett. Mr. Green asked how many violations has Marathon had in the past. Ms. Reagan stated this is the first one under this ownership. Chief Starrett stated there have been numerous violations under another owner. Mr. Kimbrough asked if there were any other questions of Chief Starrett. Mr. Green stated at one point didn't we suspend the license on Marathon? Ms. Reagan stated yes, we did under different ownership. Mr. Green stated at one point they were changing names of ownership very often. Chief Starrett stated there are no stipulations on the building at this time. Ms. Causey stated I understand what Mr. Green was saying because I think there was something there where they would change the names on the license quite often but it didn't matter because it was the building itself. Ms. Reagan stated that is what I am saying it would be on the business and not just the person that would own it. Mr. Kimbrough asked if there were any other questions for Chief Starrett. No one had any questions.

Mr. Kimbrough asked the representative from Marathon to please state his name. Mr. Shamsuddin Nassar stated his name and spelled it. Mr. Nassar stated he had heard all the stories before they took it over about the building being shut down. Actually, when the underage alcohol sale happened my Manager was out of town and we had hired a new employee and he is no longer with us. We terminated him right away. We have implemented new practices in our business where we are checking I.D.'s no matter what on all the customers. We have a register system if they buy beer you have to put in their birth date before the transaction is complete. These are the measures we have taken and he was a good employee, but he is no longer with the company. This is all we have changed. Mr. Kimbrough asked if anyone had any questions of Mr. Nassar. Mr. Green asked if the employee was fired immediately. Mr. Nassar stated, yes, he was. Mr. Kimbrough asked Mr. Nassar if he had anything further to say. Mr. Nassar stated, no he did not.

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Mr. Green moved to follow the recommendation to close the Public Hearing. Seconded by Mr. Thomas. Motion passed (6-0).

Ms. Reagan moved to follow the recommendation of the Police Committee to put Marathon located at 5184 Austell Road on three (3) months probation. Seconded by Ms. Anderson. Motion passed (6-0).

D. Host Cobb County Alcohol Task Force Meeting

Ms. Reagan stated we discussed this at the pre-agenda meeting and we have been asked to host it. There will be approximately forty people to attend. They have asked we serve lunch and beverages and the money will come from part-time help and it will be less than a thousand (\$1,000.00) dollars. This is for information only. Ms. Anderson asked what the date of the meeting was. Ms. Reagan stated it will be on May 10, 2011. Mr. Thomas stated it would be held at Pasta Bella Restaurant.

E. Alcohol Serving Permit – Ms. Burge

Ms. Reagan stated at this time she would like to turn this over to Mr. Kimbrough. Mr. Kimbrough asked Ms. Burge to please come forward. Mr. Kimbrough stated Ms. Burge has applied for a pouring permit at Fat Cats, and as part the application Ms. Burge has submitted a criminal background check. Mr. Kimbrough asked Ms. Burge if she would give him permission to read the criminal background report to the Mayor and Council. Ms. Burge stated, yes, she would give him permission. Mr. Kimbrough stated Chief Starrett has run the criminal history report and it shows an arrest on April 16, 1995 in Bartow County. Mr. Kimbrough asked Ms. Burge if this was correct and she stated yes, it was. This charge was hit and run and D.U.I. and improper window tinting. The next charge was August 16, 2001 in Douglas County for a D.U.I. and conviction date was January 11, 2002. I do not see a conviction date on Bartow County case. How was that case resolved? Ms. Burge stated she was never charged with anything. Mr. Kimbrough stated there is no disposition conviction as listed on the criminal history. The only one is the arrest in Douglas County in 2001 that shows a conviction in 2002 and that was for D.U.I. Mr. Kimbrough asked Ms. Burge if this was correct. Ms. Burge stated, yes it was correct. Mr. Kimbrough stated this is all the information on her criminal history. Mr. Kimbrough asked if anyone had any questions of Ms. Burge. Mr. Kimbrough stated having heard none then we will ask for a motion to approve or disapprove the application.

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Ms. Reagan moved to follow the recommendation of the Police Committee to approve the Alcohol Permit for Ms. Burge. Seconded by Ms. Anderson. Motion approved (6-0).

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

A. Fire Report

B. Unsafe Abatement Update

Mr. Thomas stated he would like to turn this over to Chief Williams. Chief Williams stated you have the information on 5706 Mulberry Street on Mr. Charles Mark Perry. In March Mr. Perry was given thirty days to complete renovations on the exterior of the structure. Last Thursday he appeared again in our City Court on April 28, 2011. His case was heard and due to a significant effort he had done to the structure he was ruled to be in code compliance to the code violations listed. At this point and time the issue is over. Mr. Thomas stated he was glad he complied. Mr. Standard asked has he complied with unsafe building abatement at what we were under. Chief Williams stated, no, what he had been cited for were the unkempt property issues. Mr. Standard stated, so, he thinks he done and that's as far as it is going. Mayor Jerkins stated didn't they tell Mr. Perry he would have to paint it. Chief Williams stated, yes, they did. Mr. Standard stated it is far from being finished. Chief Williams stated he did know it had to be painted but did not know if it was one of the stipulations. Ms. Farmer stated she knew there was a list of violations he had to comply with but did not know if the painting was on the list. Chief Williams stated as far the violations he has completed them all except for the painting. Chief Williams stated this is all I have to report tonight.

**11. PUBLIC WORKS DEPARTMENT
MARTIN STANDARD, CHAIRPERSON
Randy Bowens, Director**

1. Presentation:

A. Collis Brown, Project Manager

Georgia Environmental Protection Division Floodplain Management

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Mr. Standard moved to follow the recommendation of the Public Works Committee to table this item until June 6, 2011 Council meeting. Seconded by Mr. Thomas. Motion passed (6-0).

2. Recommendation and Approval:

A. Stormwater Education Materials

Mr. Standard stated the purpose is to create an eight-series selection of educational materials that will aid the City of Austell in continuing to meet stormwater permit goals of providing educational materials to the general public.

Example materials to be created include Housekeeping, Practices, Maintaining Stormwater Controls, Site Design and Construction, and Maintaining Equipment and Vehicles.

Funding Statement

Funding, not to exceed \$2,120.00, is available in the Fiscal Year 2011 budget and will come from the following:

515/4320 (Stormwater Management)	52.1300 (Technical)	\$2,120.00
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Mr. Standard moved to follow the recommendation of the Public Works Committee to approve the attached proposal for the creation of educational materials to meet the City of Austell's stormwater permit. Seconded by Ms. Anderson. Motion passed (6-0).

B. Application Form

Mr. Standard stated he thought we had come closer to updating the Gravel Application form. At this time I would like to turn this over to Mr. Bowens.

Mr. Bowens stated we had a meeting with Code Enforcement last week and in doing so we had several topics and this was one of them to make him aware of the application and the sale of gravel. In doing so Mr. Appleby had some questions and in reviewing the application and we made some changes. One of which is the gravel regulations. Number one states Gravel is to be used for main driveway.

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Because of charging for the hardened surfaces and accomplishing the goal of them applying material for them to actually put on their driveways, we didn't want them to create another area on the sides or backside of their homes that acted as additional parking for vehicles. The main focus was to address the driveway status for those individuals who do not have the funds to have them asphalt or concreted. The second change we have is number four. Gravel purchases through the City of Austell are to be used for personal and residential use only. There are several businesses throughout the City who use gravel rock and we didn't want to mislead anyone thinking they could come here and purchase gravel commercially. These are the changes we have made and then we added at the very bottom of the page stipulations for official use only. Those stipulations will be when we have an application for gravel purchase we then go out and look at that location and verify the gravel is to be used there. Then determine how many loads because there are stipulations on how many loads you can get. If a pickup truck has three loads and we are just using this as a round figure basically because there are several driveways that are long. This is where the stipulation portion will come into play. Bo Garrison, or myself and one of our designees will go out and look at the driveway and determine whether or not there is additional gravel needed. If there is anything else that is needed on the application, please let us know.

Mr. Standard moved to follow the recommendation of the Public Works Committee to approve the application form. Seconded by Ms. Reagan. Motion passed (6-0).

**12. PARKS DEPARTMENT
RANDY GREEN, CHAIRPERSON
Jim Graham, Director**

A. Information Only: Legion Park Ribbon Cutting Ceremony

Mr. Green stated we have the Ribbon Cutting Ceremony at Legion Park and at this time I would like to turn this over to Mr. Graham.

Mr. Graham stated we probably will not be a 100% on the park but we are trying. Mr. Graham stated Channel 11-WXIA will do a live broadcast that evening at 5:30 or 6:00 P.M.

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We are trying very hard to get the park ready for the camera. We have been working weekends and they are trying to get some of the ball teams to come and play ball. We are trying to get some contributions for refreshments for the people who attend. All the volunteers who helped landscape will attend and we have some plaques to give each Lowe's Store who participated. They donated a little over \$40,000 in materials and we need to show our gratitude to them. Mr. Green asked if it was May 18, 2011 starting at 5:30 right. Mr. Graham stated, yes that's correct. Mr. Graham stated we should have an announcement on the morning news and the six o'clock news. Mr. Graham stated Georgia Power contributed over \$30,000.00 in rewiring and bringing power into the park and parking lot.

**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

NO MEETING

Mayor Jerkins stated Cobb County will have the Prayer Breakfast on Thursday, May 5, 2011 and we have a table for ten if some of you would like to go. It will be held at the Galleria from 7 A.M. to 9 A.M.

Mayor Jerkins asked if anyone had any other items to discuss. Ms. Anderson stated she would like to give heartfelt and genuine thanks to the Fire Department and the Police Department who responded to Carolyn Anderson's death.

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Many family members have expressed their gratitude to the Police Department especially Detective Jefferson and the other Officer whom I can't think of his name stayed till the funeral home arrived. They were so polite and so helpful and very courteous to everyone. We are very thankful. Also, to the Public Works Department for the signs because we had over four hundred people go by her house. It was very nice to have those signs out there especially for those people who came from out of town and were not sure of where they were going. I think we are very lucky to live in a city that has those and has such great people who are able to respond and able to respond professionally as well as emotionally. You don't see those signs in other cities and it was really nice and thank you.

Mayor Jerkins asked if anyone had any further questions. Ms. Reagan stated she had a question about the George Beavers basketball court. It is cracking really bad and is their money in there where it was flooded to resurface the court. Mr. Graham stated, no, we left a lot of money at the end for Parks, etc. but not anything for neighborhood parks. Hopefully, sometime next year we will be able to go in there and reseal it. Mr. Graham stated he would definitely put it on the list. Ms. Reagan asked Mr. Graham if he could get someone to spray the weeds. Mr. Graham stated it will not do any good if it rains the next three to four days so we will have to wait for three to four dry hot days. I will put this on our list of projects to do.

Ms. Turner asked does the same four day policy pertain to the poison ivy down on the path. Mr. Graham stated, yes it does because it doesn't do any good to spray when rain is in the forecast.

16. ADJOURN

Mr. Thomas moved to follow the recommendation to adjourn the meeting. Seconded by Mr. Green.