

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, SEPTEMBER 9, 2013**

Present: Mayor Joe Jerkins  
Kirsten Anderson  
Trudie Causey  
Virginia Reagan  
Martin Standard  
Scott Thomas  
Suzanne Thomason

The regular meeting of the Mayor and the City Council was held on Monday, September 9, 2013 at 7:00 P.M. 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 R. Bailey gave the Invocation and Mayor Jerkins led the Pledge of Allegiance.

Mayor Jerkins asked the Council if they had any items to add to the Agenda. Mr. Thomas stated he would like to add 12C. – Gospel Nation Christian Fellowship request to use Legion Park for Halloween on 10/31/2013.

*Ms. Anderson moved to follow the recommendation of Mayor Jerkins to add 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 \$1,175.00
- C. Approve Minutes of Regular Council Meeting August 5, 2013

*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. Pastor Eddie M. Tindle of Faith in the World Ministries introduced herself and stated she was the Pastor at Faith in the World Ministries located at 3888D Oglesby Road in Powder Springs, GA. She stated she would like to request a temporary permit for occupancy at 2751 Sweetwater Street, Austell, GA 30106 known as the West Metro Baptist Association Building. Pastor Tindle stated I have come to you to ask for a temporary permit to occupy the West Metro Baptist Association Building in order to conduct church services and community business. We are an established church for four (4) years beginning our ministry at Smitha Middle School in 2009 where we resided for one year. We then moved to our Oglesby address in September of 2010 where we have been for the last three years. We have since outgrown this location and through the encouragement of our friend Reverend Marvin "Doc" Frady we have come to petition for this special permit. In our tenure in our current location we have sponsored Hello Neighbor Day Outings where we served over one hundred and fifty people with our Community Fellowship, Outreach and food giveaway. Our members have ministered to over five hundred and fifty-nine inmates at the Cobb County Work Release Center under the direction of Pastor Doc Frady. Since 2010 we have disbursed over ten thousand dollars in benevolence to families and individuals for food, housing; assistance; and clothing; utility assistance; fuel and unforeseen emergencies. This has been done without grants or any assistance from the community. It is not our intent for permanent establishment. But, we hope and pray you would help us to expand at this location while we are in search for a permanent location in the Austell or Powder Springs area.

Mayor Jerkins stated to Pastor Tindle we have to go through the process. You have to have so many parking spaces to have a church. Mr. Graham stated it is considered Central Business District and I told Reverend Frady about this and as it stands years ago we opted it as Central Business District and would not allow any store front churches. This is different than a store front church. However, it would require a special land use permit. We have to be careful not to set a precedent because as you remember at one time we had five or six churches. It is up to the Mayor and Council as to what to do. The only way we can do this is to get a Special Land Use Permit for a period of time. Mayor Jerkins asked if this had to go through Planning and Zoning. Mr. Graham stated, yes it does. Mr. Standard asked where the building was located. Mr. Graham stated it is right next to the daycare and it actually faces Sweetwater Street and the back parking faces Joe Jerkins. Ms. Anderson asked if there was ample parking there. What Reverend Frady told me and I forget how many spaces but the Daycare next door has offered to let them use their space. These are things we have checked out.

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Mayor Jerkins stated before the Mayor and Council can vote on this it has to go through the Planning and Zoning and you have to go to Mr. Graham's office. Mr. Graham explained the procedure will take about forty-five days and then come back to the Mayor and Council. Mr. Graham told Pastor Tindle to please come to Suite 101 at the Threadmill Complex.

**6. GAS SYSTEM REPRESENTATIVE  
JOE JERKINS**

Mr. Kimbrough stated he attended the meeting last week and it was a normal meeting we adopted a gas rate schedule for this period. Still doing very well a little over a five million dollar swing from where we were this time last year because of the cold weather. Mr. Register the General Manager at the Gas Company stated this winter is supposed to be one of the coldest and wettest winters in recent history. So we will see.

**7. FINANCE REPORT  
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**

A. Police Report  
B. Code Enforcement Report

Ms. Causey asked, have we had any luck on the properties on Sanders Drive. Mayor Jerkins stated Chief Starrett's son is working on this. Chief Starrett stated we are working on both properties. Ms. Causey stated at least we are making a little progress.

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

A. Fire Report

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

- A. Purchase of 2013 Pro-Patch TCM-425-80 DHE Asphalt Pothole Patcher  
Ms. Anderson stated the purchase of one 2013 Pro-Patch TCM-425-80 DHE. Asphalt Pothole Patcher for use in the Street Department. To approve the purchase of one new 2013 Pro-Patch TCM-425-80 DHE. Asphalt Pothole Patcher from Environmental Products of Georgia at a cost of \$156,500.00 and to authorize the Mayor to execute all corresponding documents related to this purchase.

*Ms. Anderson moved to follow the recommendation of the Public Works Committee to approve the purchase of one new 2013 Pro-Patch TCM-425-80 DHE Asphalt Pothole Patcher from Environmental Products of Georgia at a cost of \$156,500.00 and to authorize the Mayor to execute all corresponding documents related to this purchase. Seconded by Ms. Reagan. Motion passed (6-0).*

B. Purchase of New Dump Bed

Ms. Anderson stated the purpose is to approve the purchase of one new 12 foot contractor dump bed to replace the current 12 foot dump bed on the 1996 Chevrolet Kodiak dump truck. The department has received the quote from Palfleet Truck Equipment for \$7,527.99. To be funded from the Special Purpose Local Option Sales Tax, Fund 325, account 4210 (DOT Projects), 54.1400 (Infrastructure). The Department requests this be sole-source procurement.

*Ms. Anderson moved to follow the recommendation to approve the Purchase of one new 12 foot contractor dump bed to replace the current 12 foot dump bed on the 1996 Chevrolet Kodiak dump truck. Seconded by Ms. Reagan. Motion passed (6-0).*

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**C. Cemetery Street Sidewalk Improvements**

Ms. Anderson stated to install approximately 1,600 linear feet of new sidewalk along Cemetery Street (from Veterans Memorial Highway to Bowden Street.) The scope of work includes, but is not limited to, the installation of curb and gutter, sidewalk, asphalt pavement, traffic striping and storm drain pipe.

Request for bids were advertised in the Marietta Daily Journal on August 2, 2013; August 9, 2013; August 16, 2013; and August 23, 2013. The following bids were received, opened, and read at the bid opening on August 30, 2013.

<u>Bidder</u>	<u>Bid Amount</u>
DAF Concrete, Inc.	\$146,370.00
Glosson Enterprises	\$149,370.52
Ohmshiv Construction, LLC	\$199,643.15
Construction Engineering and Management Co.	\$228,883.00

*Ms. Anderson stated it is the recommendation of the Public Works Committee to approve the installation of new sidewalks along Cemetery Street (from Veterans Memorial Highway to Bowden Street) and all other related work. Further, it is the recommendation of the Public Works Committee to award a contract and issue a Notice to Proceed to the best responsive bidder, DAF Concrete, Inc., in the amount of \$146,370.00. To be funded from the Special Purpose Local Option Sales Tax, Fund 325, account 4210 (DOT Projects), 54.1400 (Infrastructure). Seconded by Mr. Thomas. Motion passed (6-0).*

**D. Stonebrook Subdivision**

Ms. Anderson stated to impose a surcharge fee for development of vacant lots within the Stonebrook subdivision to allow for the repair of the sub-base and the installation of the final asphalt topping on the streets.

On October 6, 2003, City Council approved plans for the development of the Stonebrook subdivision, at the time, the City of Austell Development Regulations for Subdivision did not contain maintenance bond requirements; maintenance bond requirements were approved by City Council on February 6, 2006.

During the time of development, the developer/builder had essentially gone out of business and is no longer connected to this development. Staff has met with one of the current builders who own a majority of the lots to discuss the road issue.

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*Ms. Anderson stated in order to collect funds that would be used specifically for the repair of the sub-base and to install the final asphalt topping. Ms. Anderson moved to follow the recommendation of the Public Works Department to adopt an ordinance to allow for such collection. This surcharge fee would be paid by each individual builder or lot owner at the time of permitting and, in turn, would be maintained in a separate interest bearing bank account. By collecting this surcharge, it would help offset any burden on the City's budget with making these repairs. Seconded by Ms. Causey. Motion passed (6-0).*

Mr. Standard asked if this was the only subdivision we are dealing with right now or does this apply to all subdivisions. Mr. Bowens stated this would apply to any subdivisions that went through this process, but currently this only applies to this subdivision.

Mr. Kimbrough stated to me this was going forward and not imposing something that was already in the process. I don't think we can do that, no. Mr. Bowens stated most of the subdivisions that are under development now the new ones that actually have performance bonds in place. This happened before 2006 before the ordinance so anything coming into play now would be required to have a performance bond or a situation such as this which is one of those that fell through the cracks. Basically, it will apply to just this subdivision currently but in case there is a subdivision in the future that might go bankrupt or something like that this ordinance would apply to them also. Mr. Kimbrough stated we cannot do that; we cannot enact an ordinance that will penalize the current owners of property because they didn't know this would happen when they purchased the property or went through the development process. Mr. Bowens stated I am not saying this subdivision would be in place for those but it would be a similar circumstance that we would have to do something specific to a subdivision in the future. Mr. Kimbrough stated yes, going forth in the future. Mr. Kimbrough stated we cannot apply it to Stonebrook right now. Mr. Bowens stated this would be our template in case this arises in the future. Mr. Kimbrough stated yes, if it arises in the future but just like all the other pieces of property out there that are grandfathered in and when a new zoning ordinance is enacted we wouldn't be able to go back and impose this fee on those landowners. I don't think and I feel uncomfortable doing this. Mayor Jerkins asked Mr. Kimbrough so, what you are saying is what we have now will not be covered. So what will we do, take the tax payers money to pave the street? Mr. Kimbrough stated I would hope not but that is what other entities and municipalities have had to do in the past. Mayor Jerkins stated well are we not going to issue building permits.

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Mr. Kimbrough stated we have the performance bonds that are in place now. Mayor Jerkins stated well they have them but what will we do about this one that doesn't have a performance bond. Mr. Kimbrough stated he felt uncomfortable about doing this for the Stonebrook subdivision. Mr. Graham stated the lot owners do not disagree with this, they know someone has to pay. Mr. Bowens stated they were well aware they own the majority of the lots there and they did not want to take on the burden financially of the actual paving of the streets themselves. So, if passing that increased amount on to the property owners as they buy the lots. Mr. Kimbrough stated, yes, the future owners. Mr. Bowens stated the increased costs will go into a special fund that we have with the help of Denise Soesbee to accommodate any improvements or repairs at the time the subdivision is being built up. Mr. Kimbrough stated I don't have a problem with that but I didn't see that in how it was written. You and I had talked about passing that cost on to the future land owners which certainly divides it between forty to sixty lots however many are out there opposed to one land owner who owns or a developer who owns all of those lots. Mr. Graham stated there are eighty lots and only three owners. The one that owns the majority of them we met with and talk to and they understood we were going to do something and they had no problem with it because they didn't wish to take on that responsibility. Mr. Kimbrough stated he had no problem with them passing that on and that is what we had talked about was meeting with them and getting their approval on something like this. Mr. Graham stated like Mr. Bowens stated this is the only one we are talking about. Mr. Kimbrough stated hopefully it will be the only one. Mayor Jerkins stated this was done before the performance bonds. Mr. Bowens stated there are not any current developments that have not been built out that this could happen again. Everything else under construction right now has a performance bond to accommodate lack of completion. This one is specifically for Stonebrook and to accommodate the road improvements that need to be done. Ms. Anderson stated she had a question. This would only effect if they want a building permit, right? As long as they are owning the property. Mayor Jerkins stated when they come to get a building permit the fee would be added into the building permit. This would be so we can accumulate the money to pave the streets. Ms. Anderson stated so as long as they are not building they are not paying the fee. Mr. Kimbrough stated in that respect we are good and for the future sales that this will apply to and not really imposing fees upon the current landowners. Mr. Graham reiterated no, we are not charging the current landowners. Mr. Kimbrough stated we're good. Ms. Causey asked how much the fees will be when added. Mr. Bowens stated what we did was get bids from the different asphalt companies for resurfacing and it came out two to three thousand dollars a lot but that number could change.

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The way it would change if there is additional damages to the sub grade which is what they are doing on right now that needs to be repaired prior to the final topping going down or increased costs of materials. Ms. Causey stated so actually what will happen is the builders will add the permit fee and then they will pass it on to the homeowner. Mr. Bowens stated correct. Mr. Graham stated the developer does this when they sell a lot anyway. Mr. Standard asked if this could be applied to anything other than streets. Like, if you have subdivisions that go bankrupt and their houses rot away would that apply to this. Mr. Bowens stated no, it is strictly streets. Mr. Kimbrough stated you really have to do it that way because a fee has to be reasonably directed at the cost of doing that business. That could be a cost to the City of doing that business if a builder goes bankrupt and you are left high and dry without a bond. This should not happen because we have the performance bonds in place. Mayor Jerkins stated the three thousand dollar fee will not be anything anyway to the builder. It is not a big burden on them. Mr. Kimbrough stated with that explanation it may have been the way she was reading it that gave me concerns. We are good now with the ordinance. Mr. Bowens asked Mr. Kimbrough to please look at the Ordinance. Mr. Kimbrough stated he had already gone over the ordinance and it is fine and everything is good.

E. Request for Street Light – Payne Drive

Ms. Anderson stated a request has been received for the installation of one street light at Payne Drive.

*Ms. Anderson moved to follow the recommendation of the Public Works Committee to install a street light on Payne Drive. The street light will cost \$13.65 monthly. Seconded by Ms. Thomason. Motion passed (6-0).*

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

A. New Playground at Legion Park

*Mr. Thomas moved to follow the recommendation of the Parks committee the approval of a new play area at Legion Park to be located behind the pavilion.*

*This area will consist of covered horseshoe pits, beach volleyball and additional pieces of playground pieces similar to the equipment down in the main playground.*



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*The cost of the project will be approximately \$45,000.00 and will be funded in part by the 2013 CDBG funds and the rest by the 1% SPLOST funds. Seconded by Ms. Causey. Motion passed (6-0).*

Mr. Standard asked if we knew in part how much the two different funds would come from would it be fifty fifty. Mr. Graham stated the CDBG would pay for the playground which would be about \$18,000.00 and the remainder would come out of SPLOST.

**B. Purchase of 3045 Veterans Memorial Highway**

*Mr. Thomas moved to follow the recommendation of the Parks Committee to approve the Resolution 2013-0901 for the purpose of purchasing 3045 Veterans Memorial Highway in an amount not to exceed \$20,000 and this has been previously discussed by Mayor and Council. Seconded by Ms. Reagan. Motion passed (6-0).*

**C. Gospel Nation Christian Fellowship request to use Legion Park**

*Mr. Thomas moved to follow the recommendation of the Parks Committee the request from Pastor John Bailey of Gospel Nationa Christian Fellowship located at 4711 Meadows Road, Powder Springs, GA to use Legion Park for an alternative to Halloween event for the community. The event will be held on Wednesday, October 31, 2013. Pastor Bailey has used the park for the past two years and has done a great job. Seconded by Ms. Reagan. Motion passed (6-0).*

**13. COMMUNITY DEVELOPMENT DEPARTMENT  
SUZANNE THOMASON, CHAIRPERSON  
Jim Graham, Director**

**A. No Report**

**14. ATTORNEY, DUPREE & KIMBROUGH**

**A. No Report**

**15. MAYOR'S REPORT**

**A. CMA MEETING  
TIME:  
LOCATION:**

**SEPTEMBER 10, 2013  
6:30 P.M.  
Hosted by Austell at Cobb Chamber**

## **16. ADJOURN**

*Mr. Thomas moved to follow the recommendation of Mayor Jerkins to adjourn the meeting. Seconded by Ms. Reagan. Motion passed (6-0).*