

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, SEPTEMBER 10, 2007**

Present: Joe Jerkins, Mayor
Kirsten Anderson
Beverly James Boyd
Randy Green
Virginia Reagan
Scott Thomas
David "Bo" Traylor

The regular meeting of the Mayor and Austell City Council was held on September 10, 2007, at 7:00 P.M. at City Hall.

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

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Pastor Bill Shattles gave the Invocation. Mayor Jerkins led the Pledge of Allegiance. Mayor Jerkins asked if any member of the Council would like to add items to the agenda. Mr. Kimbrough stated he would like to add 14A. - Sign Ordinance. Ms. Boyd stated she would like to add 7B. - Budget Amendment.

Mr. Green moved to follow the recommendation of Mayor Jerkins to add the items to the agenda. Seconded by Mr. Traylor. Motion passed (6-0).

Mayor Jerkins presented a plaque of appreciation to Curtis McClendon for thirty (30) years of service and thanked Curtis for all his hard work and efforts to the City of Austell. Mr. Traylor presented a thirty (30) year pin for his loyal service to the City of Austell.

Mayor Jerkins presented a plaque of appreciation to Mike Hays for (25) twenty-five years of service and thanked Mike for all his hard work and efforts to the City of Austell. Mr. Traylor presented a twenty-five (25) year pin for his loyal service to the City of Austell.

Mayor Jerkins presented Robert Miller with a five (5) year pin. Mayor Jerkins thanked him for his efforts and dedicated service.

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Mayor Jerkins acknowledged Antonio Ferguson, Jerry Sharp and Richard Long were not present to receive their five (5) year pin.

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 \$1,220.50
- C. Approve Minutes of Regular Meeting August 6, 2007
- D. Executive Session

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

4. EXCEPTION TO CONSENT AGENDA

5. CITIZENS REPORT

Mayor Jerkins asked if anyone would like to speak to Mayor and Council. No one spoke.

**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mr. Kimbrough stated he attended the meeting. He stated a general report was given for this period and the rate schedule was adopted. It was reported the financial conditions are very good at this point in time.

7. FINANCE DEPARTMENT

**BEVERLY JAMES BOYD, CHAIRPERSON
Denise Soesbee, Director**

- A. Financial Report
- B. Budget Amendment

Ms. Boyd stated please consider the attached request to use our contingency funds for electrical work required for the Concert in the Park celebration held on September 15, 2007. This amount is not to exceed \$2,500.00. We now have appropriate wiring for any events in the future.

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Ms. Boyd moved to follow the recommendation of the Finance Committee to approve the budget amendment. Seconded by Ms. Reagan. Motion passed (6-0).

**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
C. Kum C. Lee – Manager of Café Hot Wings

Ms. Reagan stated the City of Austell Police Department has charged Kum C. Lee (3) three times with underage alcohol sales: July 10, 2000; June 4, 2001; and July 19, 2007. Mrs. Lee has pleaded guilty twice and Nolo Contendere once and she paid the fines for each offense. On December 4, 2006, Mrs. Lee came before the City Council asking for special consideration to waive the code stating no person shall be eligible to receive a permit if the person has ever been convicted or shall have taken a plea of Nolo Contendere within (10) ten years. Council approved Mrs. Lee a request for a work permit for manager at Café Hot Wings. After further research it was learned that Mrs. Lee applied for a manager's work permit on December 6, 2006, and an employee's work permit on December 14, 2006. Because of her many convictions the Police Committee recommends to permanently suspend Kum C. Lee's managers work permit and her employee's work permit, (2) two permits.

Ms. Reagan moved to follow the Police Committee recommendation to suspend Kum C. Lee's manager's permit and her employee's work permit. Seconded by Ms. Boyd. Motion passed (6-0).

Mr. Kimbrough asked Mrs. Lee's daughter if she understood her mother could not work there if they were selling alcohol. The daughter stated she understood.

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D. Café Hot Wings – Alcohol Violation Hearing

Ms. Reagan stated on June 21, 2007, during an Alcohol Compliance Check, employee Kum Chae Lee sold alcohol to a person under the age of 21. The person she sold to was 18 years of age. This was witnessed by Chief Starrett (Austell Police Department), and Rebeccah Westenberger and Chris Lee of the Cobb County Sheriff's Office.

Mrs. Lee was charged with Alcohol Sale to a minor. In court on July 19, 2007 Mrs. Lee entered a plea of Nolo Contendere and received a suspended sentence of confinement, and a fine in the amount of \$409.00.

At this time she was still employed at Café Hot Wings. The previous history of this location is as follows:

July 10, 2000 – Sales to a minor by Kum Chae Lee. Café Hot Wings received 6 months probation by Council.

June 4, 2001 – Sales to a minor by Kum Chae Lee. Café Hot Wings received 1 year Probation by Council.

February 4, 2002 – Sales to a minor by another employee. Café Hot Wings received 3 months suspension of their Alcohol License.

Ms. Reagan stated at this time she would turn the public hearing over to City Attorney Scott Kimbrough. Mr. Kimbrough stated at this time he would call for a public hearing in the matter of Café Hot Wings dealing with an alcohol violation. They were cited for underage alcohol sales. Who is here on behalf of the City of Austell and who is here on behalf of Café Hot Wings? Mayor Jerkins stated Café Hot Wings would like to postpone the hearing. Mr. Kimbrough asked Ms. Christina Lee, the daughter of Mrs. Lee of Café Hot Wings, if this was the wish of Café Hot Wings. Ms. Lee stated she was looking for an attorney. She had found one but the attorney could not attend the meeting tonight. We want to get the license so we can sell the business. This is the main reason because my parents will retire soon. My mother has not been feeling very well and she should not have worked that day, which is no excuse but this is what happened. We just want to try and keep the license so we can sell to someone else. Mr. Kimbrough asked Ms. Lee if she was interested in hiring an attorney. Ms. Lee stated again she would like to keep the license.

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Mr. Kimbrough explained to Ms. Lee the Mayor and Council would continue what was in effect at the August council meeting and your license would still be suspended at this time, until which time we would have a public hearing. If you would like to get an attorney and ask that this hearing be postponed we will consider that if this is what you are doing. Ms. Lee explained all of the above to her father Mr. Lee who does not speak English.

Mr. Kimbrough asked Ms. Lee if she wanted to go forward with the public hearing tonight. Ms. Lee stated, yes. Mr. Kimbrough stated, at the August council meeting Café Hot Wings was given the opportunity to get council at that time and given notice of this hearing tonight. Mr. Kimbrough swore in Chief Bob Starrett, Ms. Christina Lee and Mr. Lee.

“Chief Starrett stated during an alcohol compliance check we sent an underage person, actually under the age of eighteen, to all the businesses in Austell that sell alcohol. The underage person purchased alcohol from Mrs. Lee who is the wife of Mr. Lee the owner, and this was witnessed by me and Rebecca Westenberg and Chris Lee of the Cobb County Sheriff’s Office. After that she was charged with selling alcohol to an underage minor and pleaded Nolo Contendere, and she received a suspended sentence of confinement, and a fine in the amount of \$409.00. Mr. Kimbrough asked if anyone had any questions. Ms. Boyd asked what date was that on? Chief Starrett stated it was on June 21, 2007”.

Mr. Kimbrough asked if anyone else had any questions for Chief Starrett. No one had any questions. Mr. Kimbrough asked who was here to speak for Café Hot Wings? Ms. Christina Lee stated she was present to speak for Café Hot Wings.

“Ms. Lee stated they were very careful as to whom they serve alcohol, especially minors. My mother, Mrs. Lee, who was sick that day did not read the numbers correctly. We are very sorry for that error and we will try to improve. My father will attend a seminar for Underage Alcohol Sales. We need to put a system in where my father will check before alcohol is sold. My parents will retire soon because my mother cannot work anymore. Our business has declined tremendously because we cannot sell alcohol any longer. This is really hurting our business. We would appreciate any consideration you can give us”.

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Mr. Kimbrough asked if anyone had any questions for Mr. Lee or Ms. Lee. No one had any questions.

Ms. Boyd moved to follow the recommendation of Mr. Kimbrough to close the hearing. Seconded by Mr. Traylor. Motion passed (6-0).

Ms. Reagan moved to follow the recommendation of the Police Committee to suspend Café Hot Wings alcohol license until January 1, 2008. Seconded by Mr. Thomas. Motion passed (6-0).

Ms. Boyd stated she had a problem. They have been on probation for six months in 2000 and again in 2001 one year probation and they still didn't learn their lesson. We put them on three months suspension of their alcohol license in February 2002 and here it is June 21, 2007, and they have violated again and I just don't think this is long enough. Mr. Green agreed with Ms. Boyd and stated he thought it should be a stiffer suspension. Mr. Kimbrough stated it has actually been a five month suspension and Mayor Jerkins reiterated, yes, it was a five month suspension period. Mayor Jerkins stated, if you do not feel comfortable with this they will have to come back in January anyway to renew the license before Council to get alcohol license at that time. Mr. Traylor asked if the council could mandate the owner to take a class regarding selling alcohol to a minor. Mayor Jerkins stated, since their license was suspended until January 1, 2008, what would be the point. When Mr. Lee comes back before the council on January 1, 2008, you can make up your mind at that time as to what should be done. This was agreeable with the council.

E. Vehicle Repair

Ms. Reagan stated while attempting to apprehend a fleeing suspect, Officer Sloan damaged a vehicle. The repair cost was \$4,753.21, and a copy of the bill is attached. This incident has been reviewed, and a Review Board Hearing has been held. Officer Sloan was found at fault and disciplinary action has been taken. No other damage or injuries occurred. A bolt on a tie rod under the vehicle broke off, contributing to this incident.

The Police Committee requests Council to approve payment of this repair bill. Thornton's Chevrolet has repaired our vehicles in the past, and is approved by the State for this work.

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Due to the rising cost of insurance coverage, and the deductible required, this claim was not turned over to our insurance company to be paid. This money will be taken from Vehicle Repair Department 3210 account 52.2201, in the Police Department's budget.

As a note, one of our vehicles received minor damage by being struck by another vehicle. Their insurance gave us a check for the damages. The vehicle was repaired, and we received a check in the amount of \$1430.00, which was deposited in General Fund. The Police Committee requests that this \$1430.00 be transferred to Department 3210 account 52.2201, in the Police Department's budget, to offset the repair costs of the vehicle driven by Officer Sloan.

Ms. Reagan moved to follow the recommendation of the Police Committee to approve the vehicle repair. Seconded by Mr. Thomas. Motion passed (6-0).

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

- A. Fire Report
- B. Mutual Aid Agreement with Cobb Fire

Mr. Thomas stated the Mutual Aid Agreement between Austell Fire and Emergency Services and Cobb County Fire and Emergency Services is a vital factor that ensures our citizens the most effective emergency response possible. This agreement serves as the cornerstone in ensuring the great working relationship that we share with Cobb Fire.

In turn, the mutual aid agreement also serves as a key factor in maintaining our Insurance Services Organization (ISO) rating.

The document has been approved by the Cobb County Board of Commissioners at their August meeting. With City Council approval, Cobb County Fire Chief Rebecca Denlinger and the Chief Williams will sign the agreement as soon as possible.

Mr. Thomas moved to follow the recommendation of the Fire Committee to approve the Mutual Aid Agreement with Cobb Fire. Seconded by Ms. Reagan. Motion passed (6-0).

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**11. PUBLIC WORKS DEPARTMENT
DAVID “BO” TRAYLOR, CHAIRPERSON
Randy Bowens, Director**

For Information Only:

A. Employee Reception and Pin Ceremony

Curtis L. McClendon – 30 Years

Michael F. Hays – 25 Years

Antonio Ferguson – 5 Years

Richard Long – 5 Years

Robert Miller – 5 Years

Jerry Sharp – 5 Years

Recommendation and Approval:

B. Adoption of 2008 Wastewater Rate Increase Schedule

Mr. Traylor stated it is the recommendation of the Public Works Committee to accept the following wastewater rate increases as proposed by Keck and Wood, Inc. to become effective January 1, 2008. The governmental contractual water rate would be increased by 4 percent per 1,000 gallons. Therefore, the proposed rates would be adjusted upward \$.14 per 1,000.

The City’s revenue bond ordinance requires that the system income generate debt service, operations and maintenance costs, plus debt service coverage of 20 percent. Considering the coverage factor, wastewater rates would be adjusted upward an additional \$0.03 per 1,000 gallons to recognize the latest change to County rates.

	CURRENT	PROPOSED
Inside City (Per 1,000 Gallons)	\$5.02	\$5.19
Outside City (Per 1,000 Gallons)	\$5.28	\$5.45

Austell Box Board Corporation	CURRENT	PROPOSED
Per 1,000 Gallons	\$5.02	\$5.19

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Mr. Traylor moved to follow the recommendation of the Public Works Committee to approve the Adoption of 2008 Wastewater Rate Increase Schedule. Motion passed (6-0).

C. Adoption of 2008 Water Rate Increase Schedule

Mr. Traylor stated it is the recommendation of the Public Works Committee to accept the following water rate increases as proposed by Keck and Wood, Inc. to become effective January 1, 2008. The governmental contractual water rate would be increased by 11.5 percent, or \$0.13, per 1,000 gallons.

The City's revenue bond ordinance requires that the system income generate debt service, operations and maintenance costs, plus debt service coverage of 20 percent. Considering the coverage factor, water rates would be adjusted upward \$0.16 per 1,000 gallons to recognize the latest change in Cobb County-Marietta Water Authority's rates.

Inside City:

	<u>Current</u>	<u>Proposed</u>
First 2,000 gallons (minimum bill)	\$4.50	\$4.82
2,000 gallons to 7,000 gallons	\$2.32	\$2.48
7,000 gallons to 15,000 gallons	\$2.95	\$3.11
Over 15,000 gallons	\$4.85	\$5.01

Outside City:

	<u>Current</u>	<u>Proposed</u>
First 2,000 gallons (minimum bill)	\$5.00	\$5.32
2,000 gallons to 7,000 gallons	\$2.57	\$2.73
7,000 gallons to 15,000 gallons	\$3.26	\$3.42
Over 15,000 gallons	\$5.35	\$5.51

Mr. Traylor moved to follow the recommendation to approve the Adoption of 2008 Water Rate Increase Schedule. Seconded by Mr. Thomas. Motion passed (6-0).

Mayor Jerkins stated he would like to explain about the rates. Just about every year we have to increase a little bit but it's not because the city wants to increase the rates it's because the County raises its rates and so we have to increase our rates and follow suit with them.

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D. Resurfacing of Village on the Park Subdivision Entrance

Mr. Traylor stated the Public Works Department has received two (2) estimates for the resurfacing of the entrance to Village on the Park, as follows:

Cruse Paving, Inc.	\$17,200.00
Asphalt Atlanta	\$35,962.00

It is the recommendation of the Public Works Committee to award the contract to the lowest bidder Cruse Paving, Inc., in an estimated amount of \$17,200.00. Cruse Paving, Inc. was used on a previous project and we are pleased with the quality of their work.

Funding for this project will come from SPLOST Funding (Division 325), account number 31.3200 (Resurfacing).

Mr. Traylor moved to follow the recommendation of the Public Works Committee to approve the Resurfacing of Village on the Park Subdivision Entrance. Seconded by Mr. Thomas. Motion passed (6-0).

12. PARKS DEPARTMENT

RANDY GREEN, CHAIRPERSON

Jim Graham, Director

A. No Report

13. COMMUNITY DEVELOPMENT

BEVERLY JAMES BOYD, CHAIRPERSON

Jim Graham, Director

A. Request for Zoning

Ms. Boyd stated Community Development Department has received a request from Clay Anderson of Sweetwater Lumber to rezone property located at 5835, 5847, 5823, and 5851 Humphries Street, in LL 24, parcels 35,56,57,58 of the 18th district, 2nd section of Cobb County from R-15 to LI.

Mr. Anderson's plans are to demolish one home to expand his existing facility and leave three residential structures as a buffer.

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The Planning and Zoning Board voted unanimously (5-0) to recommend approval of this rezoning request.

Ms. Boyd stated at this time she would like to turn the public hearing over to Mr. Kimbrough, City Attorney. Mr. Kimbrough stated at this time we call for a Public Hearing in the matter requesting for rezoning of property on Humphries Street from R-15 to LI. Who is here on behalf of the applicant Clay Anderson?

Mr. Clay Anderson stated his name and stated he was present on his behalf. Mr. Kimbrough asked Mr. Anderson and Mr. George Jordan and Mr. Noah Givens, the two people listed on the opposition list, to please come forward to be sworn in all at the same time. Mr. Kimbrough informed both sides they would have ten minutes to speak to the Mayor and Council.

Mr. Kimbrough swore in Mr. Anderson and asked him to please begin.

“Mr. Anderson stated he would like to thank the Mayor and Council for allowing him to have a business in Austell for twenty-five years. I sincerely appreciate the City of Austell and all the people in Austell who have been so wonderful. When we began the operation, and the operation has grown considerably, we have had great success here over the years thanks to the people. I am sorry if our operation has been detrimental to Austell. As we have grown we have tried to keep it up and keep things in good repair. We have gone through several growth spurts.

The reason for this rezoning is an additional 20,000 feet that is about 100' by 156' addition onto the building some years ago with the city's approval. Essentially, it's just to inventory items that are becoming more and more of a selling proposition from imports abroad. We are getting more imports out of Africa, South America and out of other countries that the market is using and China is becoming more of a player.

A little oak, poplar and pine and woods that we typically handle, we are getting more calls for other woods and we need the space. We are using and utilizing the space we have, but, we need an additional 20,000 to 25,000 feet to accommodate our needs. For the City, we are not going to enter the back at all. It will be from the front from Humphries Hill Road where our office and other warehouses are located. We will be entering at that area. We will maintain those houses we own. The old white house we took down, we will landscape that area and maintain.

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I am not sure how quickly this development will begin because the economy is not doing real well as most of us know. When I began the process of this several months ago it has constantly gone down, down, down. We probably will not begin construction on this site, if you so desire that we do it immediately. I will procrastinate some months for sure until we get a better feel. Domestic economy I have a feel for but I don't have a feel for the international economy so I am sort of saying I might back up a little bit. Again, we don't want to cause any harm to anyone and we are here trying to upgrade and we want the best for the City of Austell and we intend to do our part to see that it comes to pass".

Mr. Kimbrough asked if any member of the council had any questions for Mr. Anderson. No one had any questions. Mr. Kimbrough asked who was to speak in opposition. Mr. Noah Givens stated he was to speak in opposition.

"Mr. Givens stated there are four residences one to be demolished and the other three to my understanding to be rezoned from R-15 to Light Industrial. Mr. Anderson stated the other three homes will remain as residential properties. They don't have to remain as residential properties because they are no longer residential properties by zoning. They will be industrial. The destruction of homes in this area is concerning to me because the fewer homes we have in this area the fewer people we have to vote in these wards if they are not maintained. We can always destroy houses if they become unlivable.

If we let them go downhill and they become an eyesore we can then level them and make them into something else. My point is there is no guarantee the three houses will remain houses for citizens and not made into something else if they are rezoned into light industrial. There is no problem in leaving them in the same status as they are now. The man can still own it and he can still have the buffer and still remain residences".

Mr. Kimbrough asked if any member of the council had any questions for Mr. Givens. No one had any questions. Mr. Kimbrough asked who would be the next person to speak in opposition. Mr. George Jordan stated he was to speak next.

"Mr. Jordan stated he owned the property at 2922 Humphries Hill Road.

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Mr. Anderson and I sat down last Thursday around lunch time and addressed my concerns. I have nothing but the utmost respect for Mr. Anderson and I believe his intentions in this matter nothing but honorable. I do have a couple of concerns that I believe are going to be addressed later on. One is the traffic issue and the driveways on Humphries Street. I believe I spoke with Mr. Graham prior to the meeting and he said there will never be any more driveways for industrial use. This would eliminate one of my issues. When Mr. Anderson or Sweetwater Lumber placed a parking lot across the street from the home I own my property value plummeted and this was of great concern to me. I have my paperwork with me if you care to see it. My property went down some (\$30,000.00) thirty thousand dollars in value. Mr. Graham said in our last meeting this just slipped in and things like this just slipping in has cost me (\$30,000.00) thirty thousand dollars and has bothered me pretty badly. I don't know what slipping in means exactly, but, it has slipped into my pocket pretty heavily. Now, Mr. Anderson, just like myself has the term senior in front of his name just like me and what this means is Mr. Anderson will be relinquishing some or much of the control that he presently has at Sweetwater Lumber. It concerns me as to who will be picking up the reins and will they follow through with the plans requested by Mr. Anderson. I have no doubt Mr. Anderson will do what he says he will. But, we don't know who will be next in control. As Mr. Anderson stated he has no plans to start construction on this warehouse immediately. I have no problem as to where he's going to put the warehouse and I feel comfortable he is an honorable man and he's going to put the buffers where they should be. But, now we are looking at two years down the road and Mr. Anderson will not be in control.

Mr. Anderson may decide this is not the location he wants this warehouse in and Mr. Anderson has other properties which are just as suitable as Austell. I am sure that part of the land is the lumber business. He will be glad to tell you, there are other tracts of land that he owns that are more desirable today to continue to build on. So, I do have concerns my property value dropped (\$30,000.00) thirty thousand dollars. I am concerned the property down the street will drop and do the same if the building continues. I do have concerns about the next people that own the property, if Mr. Anderson decides to go somewhere else. I am concerned about the large trucks, and now the county with the large trucks. The gas company goes up and down. Sweetwater Board goes up and down. I do not want to see any more trucks.

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Are we sure this will not happen? As long as Mr. Anderson is in control I believe it will not happen. But, I have concerns that Mr. Anderson will soon not be in control of that business and or someone else will be operating on that property. I would like to see those answers before this zoning goes through. I think these are legitimate concerns. If you care to see the evaluation of the property I will be glad to show it.

Mayor Jerkins asked Mr. Jordan how he arrived at the (\$30,000.00) thirty thousand dollars. Mr. Jordan stated it was a paper loss. Mr. Jordan presented his tax papers to Mayor Jerkins. Mayor Jerkins stated this would have lowered your taxes as well as decreased your property. Mayor Jerkins asked Mr. Jordan what he would take for his property. Mr. Jordan stated he did not want to discuss this in front of the council and audience. Mayor Jerkins asked Mr. Jordan if he would take thirty thousand less for his property. Mr. Jordan stated, no, he would not. I would sit there and collect rent from the property to make up the losses. I also stated it was a paper loss. Ms. Boyd stated she did not hear him say a paper loss. Ms. Boyd stated, to give you some relief before we get started the stipulations we are going to put on this property it will not matter who owns it, or who runs it, or who the CEO would be. They will have to abide by the zoning that is put on the property and the stipulations pertaining to this property. We have made people tear down buildings, we have made them take fronts off of homes if they are not in compliance. So, in other words, no matter who owns the property the zoning and the stipulations will stay the same. Mr. Jordan stated he asked if the stipulations could be approved before he spoke and Mayor Jerkins stated, no, because the council has to vote on the zoning and the stipulations.

Mr. Kimbrough asked if any member of council had any questions. Ms. Anderson stated, yes, she had a question. Ms. Anderson asked Mr. Jordan if the house in question was a rental house and do you reside in this house? Mr. Jordan stated, yes, it was a rental and, no, he did not live there. Mr. Kimbrough asked if anyone else had any questions. No one did.

Ms. Boyd moved to close the hearing. Seconded by Ms. Reagan. Motion passed (6-0).

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Ms. Boyd stated Community Affairs Department has received a request from Clay Anderson of Sweetwater Lumber to rezone property located at 5835, 5847, 5823, and 5851 Humphries Street, in LL 24, parcels 35,56,57,58 of the 18th district, 2nd section of Cobb County from R-15 to LI.

Mr. Anderson's plans are to demolish one home which is the Thomas house and to expand his existing facility and leave three residential structures as a buffer. The Planning and Zoning Board voted unanimously (5-0) to recommend approval of this rezoning request. I have been working with my department heads, Jim Graham, Randy Bowens and Pat Medlin. We have walked the property twice and I have come up with the following recommendations.

Ms. Boyd moved to follow the recommendation of the Community Development Department to rezone the property located at 5835, 5847, 5823, and 5851 Humphries Street, in LL 24, parcels 35,56,57,58 of the 18th district, 2nd section of Cobb County from R-15 to LI.

- 1. The entrance to the fenced in lot on Humphries Street must be moved to Humphries Hill Road. The strip of concrete at the old entrance must be removed and the area landscaped with a screen of Leland cypress or something of equal density.*
- 2. The lot where the house was demolished must be planted along the top of the hill with a buffer of trees, grass and shrubs.*
- 3. The three remaining houses that will be used as a buffer must be maintained and kept in good repair at all times. This will include yard, grass and shrubbery maintenance.*

Mr. Anderson we hope you will put covenants in your tenant's rental agreement to keep the property clean and keep the toys up. The carport on the back of one of them needs to be enclosed or they need to keep clean. We are not picking on you. The house across the street has already been turned in to Code Enforcement. We are not asking the tenants or you to do anymore than we are asking the others to do.

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4. *These houses will remain residential and will never be used for commercial business. They are part of the 50 ft. buffer that is required between commercial and residential.*
5. *At no time will an entrance from Humphries Street, onto the existing property, be approved. In other words, he can not have an entrance off of Humphries Street into this property.*
6. *Since he is not going to start his building right away, the buffers at the existing parking lot which I was just talking about, I want that to be landscaped right away within (90) ninety days. I want the strip of cement to be taken up and the entrance to be moved and to be accomplished in (90) ninety days. Where the house is taken down I would like for that to be graded, seeded, and grassed and landscaped within (90) ninety days. This way our buffers will be in place and over the hill behind the house you can extend that out and it will not bother anybody and will not be noticed.*

Ms. Boyd asked if any of the council members would like to add any other stipulations. Ms. Reagan asked if the stipulations were going to include the shed behind the brick house on the corner of Humphries Hill and Rolly Street. Ms. Boyd stated she was asking the owner to work with his tenants that they have a place to keep their toys and their yards clean and the carport cleaned up. Mayor Jerkins asked if it was the one on the corner. Ms. Boyd stated, yes, the one that looks so bad. Mayor Jerkins asked Mr. Anderson if he had a problem with any of the stipulations. Mr. Anderson stated all the stipulations were fair and agreeable with him. Ms. Boyd stated she felt like the stipulations would help the neighborhood.

I think it will improve the streets on the left across the street and I think he will keep all his shrubbery trimmed. I think he will paint and clean up those houses.

Mr. Anderson has done a beautiful job with his other building, it is beautiful. I have no problems with Mr. Anderson. I have confidence in Mr. Anderson but we have to protect the city and this is why I have applied the stipulations.

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Mayor Jerkins stated Mr. Anderson had been in the community twenty-five years. He has loaned us equipment when we needed it and helped us a lot. He has kept his place nice and neat and we are really proud to have Mr. Anderson in the City of Austell.

Ms. Boyd moved to follow the recommendation of the Community Development Committee to approve this rezoning with the stipulations and made part of the minutes. Seconded by Ms. Reagan. Mr. Green stated he would have to abstain because Mr. Anderson owns the building I work in. Motion passed (5-0).

14. CITY ATTORNEY – DUPREE & KIMBROUGH

A. Sign Ordinance – Lease Agreement & Settlement

Mr. Kimbrough stated at the pre-agenda meeting we held an Executive Session to discuss the Sign Ordinance Lawsuit filed by MLM Advertising and at this time I would like to entertain a motion.

Ms. Boyd asked Mr. Kimbrough before the motion is made I have a question about the lease agreement. On number two (2) it says during the principal term MLM will pay Landlord an annual amount of \$3000.00 or an amount equal to 15 percent of the prior year's net revenues, whichever is greater. Mr. Kimbrough stated this is consistent with today's market.

Ms. Boyd moved to follow the recommendation to approve and give the authority and permission to Mayor Jerkins to sign the Lease Agreement & Settlement Agreement to settle the lawsuit. Seconded by Mr. Traylor. Motion passed (6-0).

15. MAYOR'S REPORT

A. CMA MEETING

DATE: September 11, 2007
TIME: 6:30 P.M.
LOCATION: Powder Springs

B. Proclamation – Public Safety Appreciation Week

Ms. Boyd moved to follow the recommendation of Mayor Jerkins to approve the Proclamation – Public Safety Appreciation Week. Seconded by Mr. Thomas. Motion passed (6-0).

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C. Proclamation – Cobb Literacy Month

Mr. Traylor moved to follow the recommendation of Mayor Jerkins to approve the Proclamation – Cobb Literacy Month. Seconded by Ms. Reagan. Motion passed (6-0).

Chief Williams stated he would like to report on the Boot Drive. We had a great Boot Drive and we raised \$4,000.00 for MDA. In addition, on October 1, 2007, will be Public Safety Appreciation Week and the First Monday Breakfast will be held at the Cobb Galleria. We will have a table for the Council and I hope to see everyone there. Also, the Concert on the Park on Saturday, September 15, 2007, the C.E.R.T. Teams will be there trying to sign up recruits.

Ms. Boyd stated she would like for everyone to pause and remember 911.

Ms. Reagan asked Chief Williams if C.E.R.T. would have a meeting at City Hall. Chief Williams stated, yes, they had put some flyers in the water bill this past week to all the residents. Chief Williams stated at the Fire Department we will have a moment of silence in remembrance of 911.

16. ADJOURN

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