

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
NOVEMBER 3, 2008**

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

Absent: Chief Tim Williams

The regular meeting of the Mayor and Austell City Council was held on Monday, November 3, 2008 at 7:00 P.M. at City Hall.

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

**1. CALL TO ORDER**

Mayor Jerkins called the meeting to order. Scott Kimbrough, City Attorney; gave the Invocation, and Mayor Jerkins led the Pledge of Allegiance. Mayor Jerkins asked if any Council Member would like to add items to the Agenda. No one did. Mayor Jerkins introduced Joe and Georgia Monnerat from the Civitan Club he said we would like to honor them for their service to the community. Mayor Jerkins asked Ms. Boyd to read some facts and history on Joe and Georgia Monnerat. Ms. Boyd stated it is indeed an honor to recognize Joe and Georgia Monnerat and to thank them for all their years of service to the City of Austell and to the Austell Civitans. Georgia joined the only female Civitan Club in Georgia in 1975. A former Civitan Governor talked with her and encouraged her to start a Civitan Club here in Austell in 1982. With Georgia and Joe leading and recruiting other volunteers, the Civitans have worked and supported every special event here in the City for many years. They have not only contributed money to help with events, but also with hard work and dedication like I've never seen. They have contributed to the Christmas Tree lighting and the Halloween Festival, our Labor Day Event in years past and to the Mayor's Motorcade. They have always been here in everything we do. Joe and Georgia met in 1941. They have been married for sixty-six (66) years and have traveled the world together during their years of service to our country. Joe was in the Army and Georgia was a nurse for the Red Cross when they met. They are recognized not only in the United States Civitan Club but internationally. It is with great pride that the Mayor and Council honor them and present them with a plaque of our appreciation.

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Mayor Jerkins presented the plaque to the Monnerat's and thanked them and the Civitan Club for all their hard work and dedication to the City of Austell.

Mr. and Mrs. Monnerat thanked the Mayor and Council and stated how many wonderful people they had met in the City of Austell and how much Austell meant to both of them. Ms. Boyd stated she knew Georgia wouldn't mind if she told their ages. Georgia is ninety and half (90 ½) and Joe is ninety-four (94).

- 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 \$1,001.26
  - C. Approve Minutes of Regular Meeting October 6, 2008

*Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the Consent Agenda. Seconded by Mr. Taylor. Motion passed (6-0)*

- 4. EXCEPTION TO CONSENT AGENDA**
- 5. CITIZENS REPORT**
- 6. GAS SYSTEM REPRESENTATIVE**  
**JOE JERKINS**

Mr. Kimbrough, City Attorney stated he attended the board meeting on Thursday which conducted normal business and adopted the rates for this period. All of you are aware the oil and natural gas prices have gone down. This is the time of year for the past three to four years that the gas system has been getting a Gas Anticipation Note to help with the purchase of natural gas during the peak season. Due to the hard work of Rob Register and all the employees at the Gas System this year it will not be necessary. They are financially sound enough to be able to withstand any types of peaks and boundaries. They have done an excellent job in a short period of time to get the system back where it should be.

- 7. FINANCE DEPARTMENT**  
**BEVERLY JAMES BOYD, CHAIRPERSON**  
**Denise Soesbee, Finance Director**
  - A. Financial Report

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**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. 911 Electrical Costs – Information Only

Ms. Reagan stated the Police Department budgeted for an air conditioning system for the 911 Center in this year's budget. Recent problems have developed due to the amount of current needed to operate 911.

After discussing this problem and receiving approval from Mayor Jerkins, a power vent has been installed to help eliminate the overheating problem, and electrical work has begun to remedy the electrical current problems.

Costs will be between \$4000.00 and \$6000.00 payable to Stansel Electric Incorporated for electrical work. (This is being coordinated by Jim Graham). \$3775.00 is Payable to Travis Motes for the Power Vent and AC work.

These costs will be taken from E-911 3800 Repair and Maintenance 52.2200.

Ms. Reagan stated this was discussed at the pre-agenda meeting on October 27, 2008.

- D. Margarita's Mexican Cantina – Alcohol Request  
Ms. Reagan stated an application has been received from Erick Toso for an Alcoholic Beverages and Spirituous Liquor at Margarita's Mexican Cantina, located at 2856 Veterans Memorial Highway in Austell. A copy of the application and other information is attached.

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A background check on Mr. Toso shows no previous criminal record within the last ten years.

The Police Committee request Council to approve this application.

*Ms. Reagan moved to follow the recommendation of the Police Committee to approve the alcohol request from Margarita's Mexican Cantina. Seconded by Mr. Thomas. Motion passed (6-0).*

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

A. Fire Report

**11. PUBLIC WORKS DEPARTMENT  
DAVID "BO" TRAYLOR, CHAIRMAN  
Randy Bowens, Director**

A. Addendum to Recycling Service Contract

Mr. Traylor stated the current recycling service contract with Allied Waste will expire on December 31, 2008. The Addendum indicates the current rate of \$2.86 per residence will increase to \$3.14 per residence to become effective January 1, 2009 and ending December 31, 2010. Due to the fluctuating gas prices, this increase includes a fuel recovery fee.

In addition, this contract includes a recycling program for the Threadmill Complex that will pay the City back for recyclables collected depending on the amount. The program would accept all single-stream items (mixed collection of items such as the residential recycling program).

It is the recommendation of the Public Works Committee to authorize Mayor Joe Jerkins to execute the attached Addendum.

*Mr. Traylor moved to follow the recommendation of the Public Works Committee to authorize Mayor Joe Jerkins to execute the attached Addendum. Seconded by Ms. Reagan. Motion passed (6-0).*

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**12. PARKS DEPARTMENT**

**RANDY GREEN, CHAIRPERSON  
Jim Graham, Director**

A. No Report

Mr. Green stated he thought the Halloween Festival was a success. Mayor Jerkins stated he would like to mention that everyone did a great job. Mr. Green asked if anyone had a head count on the festival. Mr. Graham stated we had between 5,500 and 6,500 people to attend the Halloween Festival. Mayor Jerkins stated it was real nice and very well organized. Mr. Thomas stated he would like to thank the Command Center for a job well done during the Halloween Festival.

**13. COMMUNITY DEVELOPMENT**

**BEVERLY JAMES BOYD, CHAIRPERSON  
Jim Graham, Director**

A. Proposed amendments to the City of Austell Code of Ordinances

Ms. Boyd stated whereas the City of Austell is authorized to create, adopt and amend and enforce ordinances, rules and regulations regarding unkept properties within the city limits of the City of Austell, State of Georgia, as may be amended from time to time pursuant to the Charter of the City of Austell Section 2.22, and that amendment gives the City Council the authority to make changes. Ms. Boyd stated she would like the following amendments included to be part of public record. (Please see attached Amendments).

*Ms. Boyd moved to follow the recommendation of the Community Development Committee to approve the Proposed amendments to the City of Austell Code of Ordinances this 3<sup>rd</sup> day of November 2008. Seconded by Mr. Thomas. Motion passed (6-0).*

Ms. Boyd stated we have one more the same Ordinance authorizing the Mayor and Council to make these changes. Ms. Boyd stated she would like the following amendments included to be part of public record. (Please see attached Amendments).

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*Ms. Boyd moved to follow the recommendation of the Community Development to approve Section 14-69 Vehicle Requirements. Seconded by Mr. Thomas. Motion passed (6-0).*

Ms. Boyd stated to Mayor and Council she would like to table Chapter 22 Zoning until we have an opportunity to advertise this item.

*Ms. Boyd moved to follow the recommendation of the Community Development Committee to table Chapter 22 Zoning to advertise. Seconded by Mr. Thomas. Motion passed (6-0).*

**B. Special Land Use Permit Application from Razor Properties LLC for 5948 Spring Street to operate a boarding house.**

Ms. Boyd stated the Department of Community Affairs has received a request from Ray Barnes of Razor Properties LLC for a Special Land Use Permit on property located at 5948 Spring Street, in LL 92, parcel 67 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County. Ms. Boyd stated she would like to turn this over to Mr. Kimbrough, City Attorney for a public hearing.

Mr. Kimbrough called for a public hearing for a request for a Special Land Use Permit Application from Razor Properties LLC for 5948 Spring Street to operate a boarding house. Mr. Kimbrough stated the request was received from Ray Barnes, and asked who was present to speak on behalf of Razor Properties. Ms. Byers stated she would be the representative for Mr. Ray Barnes. Mr. Kimbrough stated we also have individuals who have signed up to speak in opposition. The speakers are as follows: Ms. Rachel Charles, Mr. Kurt Charles, Ms. Gail Rollins, Ms. Myrna Thompson and Ms. Julie Gunter. Mr. Kimbrough swore in who would testify. Mr. Kimbrough informed Ms. Byers she had fifteen (15) minutes to speak and the opposition they would have a total of fifteen (15) minutes altogether to speak.

Ms. Byers stated they were asking for a Land Use Permit for the boarding house. She said we already have one on this street and I don't think anyone has had any problems with this boarding house. This one will be a little bit different, because we will only have eight or nine tenants there. We have ample parking space and we have three bathrooms which in the other one we only had three bathrooms. We have fourteen rooms.

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I don't know if we have a garage on the property and some of the people were upset about this. We are going to repair this garage and it is a one car garage. Ms. Byers stated this is all she has to say. Mr. Kimbrough asked if Mayor and Council had any questions to ask. Mr. Green asked Ms. Byers how many parking spaces she had at the location. Ms. Byers stated there are six parking places. Mr. Green asked if this is for eight apartments. Ms. Byers, stated, yes, it is. We have eight rooms. Mr. Thomas asked how many beds per room. Ms. Byers stated just one bed per room. We will have eight or nine tenants in the boarding house and we have nine rooms and we will try to have a room as the community room. Mr. Green stated that is not enough parking spaces and are you going to tell some of the tenants they cannot have a car? Ms. Byers stated, I thought you only had to have one parking space per two tenants. Mr. Green asked if this was the ordinance on the parking. Ms. Boyd answered, yes, that is correct. Mayor Jerkins asked Ms. Byers don't you have five or six parking spaces marked off already? Ms. Byers stated, yes, six parking spaces. Ms. Anderson asked how are the leases going to be and how long do you think people will stay and what kind of traffic coming in and out do you expect. Ms. Byers stated in the other boarding house they have week to week, but, more than half of our tenants have been there for more than ten years. Ms. Anderson stated, so are you talking about week long leases here? Ms. Byers stated yes, it would be week long leases. Ms. Anderson asked if you are going to have a person in charge on the premises or will it be all tenants in charge. Ms. Byers stated our office is in Mableton and we will take care of it from that office. Ms. Anderson stated, as far as the other boarding house, was that a boarding house when you purchased it and was it previously run by Ms. Zomprelli? Ms. Byers stated, yes. Mayor Jerkins stated it had been around about forty-nine years because he had been married about that long. Mayor Jerkins stated to his knowledge law enforcement has never been called to that boarding house. Mayor Jerkins stated some people may think it is going to be a group home and that is what we don't want. There is one across the street from me and yesterday my wife had to call the police because a man was going down the street in a wheelchair screaming help, help. Chief Starrett has to go out at least two to three times a week and this is operated by the state and the state can put a group home anywhere and you don't want this and I just want to make this clear to each one of you. One reason Ray Barnes bought the other boarding house and we have never had any problems.

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Mr. Gibbs has had one over there for years and it is constantly trouble to the City of Austell Police, Fire Department, and you can have one anywhere in the City of Austell if you turn this down. The law says they can have one anywhere and there is nothing we can do about it. I just wanted each one of you to know this before you decide because the State allows this to happen. Ms. Reagan asked do you own the Efficiency Lodge down on VMH and are you aware of the problems we have had down there. Ms. Byers stated, yes, because we used to have sex offenders there but they are gone now. Ms. Reagan stated there are still problems there. Ms. Byers asked what are the problems. Ms. Byers stated, yes, we did have problems when the sex offenders were put there but since they have left we haven't had any. Ms. Reagan asked how to keep them from coming back to the Efficiency Lodge. Ms. Byers stated because of the bus stops. Ms. Reagan stated well, how do we keep them from coming here in Austell. Ms. Byers stated because of schools and churches. Ms. Byers stated Cobb County actually put the sex offenders in the Efficiency Lodge not us. Ms. Reagan stated she had pages and pages of problems at the Efficiency Lodge that is current problems. Mayor Jerkins stated the Efficiency Lodge is more like a motel than a boarding house. Ms. Boyd stated both were week to week and there was no difference. Mayor Jerkins stated if you want a group home instead of a boarding house I am o.k. with it. The difference between a group home and boarding house is the boarding house hasn't caused any problems. The boarding house has been there forty-nine years. Ms. Reagan stated Jessie and Johnny Zomprelli set precedence on that. They lived there with them and set standards and they are still going by those standards. Mayor Jerkins stated they are going to set standards on this one too. Ms. Reagan stated not if no one is living there to set standards. Mayor Jerkins stated there is no one living at the Zomprelli boarding house now. Ms. Reagan stated she knew that. Ms. Byers stated there was one tenant when Ms. Zomprelli was there. Now, the remainder of them, and there is one guy who works at Kroger and has been there for nine years. Mayor Jerkins stated all of the tenants do work. Ms. Byers stated they all work in Mableton or Austell. Mayor Jerkins stated if they are in a group home they don't work because they are mental patients. Mayor Jerkins stated the tenants in the group home have been running up and down the street. They have been to my house and to Gil's house. Ms. Reagan stated there are just four tenants allowed in a Group Home.



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Mayor Jerkins stated, yes, but I had rather have a hundred in the boarding house than one in the group home who will run up and down the street causing trouble all the time. I live across the street from them and I know. Ms. Anderson stated if this is going to be a positive impact for the community I don't see threatening it with a Group Home. If they are really interested in making a positive impact and adding to the benefit of the community I don't see what the advantage of a threat if you don't give us this we will put a Group Home into the City. Ms. Byers stated she was not saying she would put a Group Home. Mayor Jerkins stated they can because it is zoned commercial. Ms. Anderson stated this was her concern, how would we benefit there with our community and people. We have some people who are some great residents living in the area and who have really put a lot into their homes and property. I would hate to see us running our wonderful residents off when we are trying to build this City into a great community. I am just real hesitate about that. We do have people who live right across the street and caddy corner who do put a lot into their property, and there will be no one on the premises. The thing that really concerns me tremendously is the week long leases. I do see the advantage of not having a vacant house there. I am very concerned because I have a thirteen year old daughter who walks across the street to the Austell First Baptist for the youth program every Wednesday night. I am very concerned with the in and out people we are unaware of. Ms. Byers stated she understood but if you look at the other tenants at the other house, I don't think any tenant has ever caused any problems. The type person who lives in a motel and Boarding House are two different people. The person who lives in a Boarding House is looking for a home not a motel room and they are not going to move out in a week. Ms. Anderson stated if that is the kind of people we would attract that would be advantageous. I still have questions because I do walk that street regularly and weekly and I do see different tenants there and I will have to say I haven't seen any problems. I am hesitant as to how many boarding homes we will allow and if we allow this one how many more are we going to allow. Or two months down the road have another and how many people are we going to bring in to impact that. Ms. Boyd asked how many rooms are in the Zomprelli house. Ms. Byers stated there are fourteen rooms. Ms. Boyd asked if kitchens facilities were provided. Ms. Byers stated they have one that has a kitchen. Ms. Boyd stated so you don't have kitchens in the other rooms and do they eat all their other meals out. Ms. Byers stated they do have microwaves in their rooms if they choose to. Ms. Boyd asked how about hot plates. Ms. Byers stated no hot plates.

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They can have microwaves and refrigerators. Mr. Green asked what has the house been previous to all of these years. Ms. Reagan stated it was three apartments.

Mayor Jerkins stated it was a boarding house and then it was a triplex according to the license. Mr. Graham stated he would like to enlighten the Mayor and Council on one thing a Special Land Use Permit is a very unique animal because you can put renewal limits on it. One, two, or three years whatever you want and they have to come back if there has been a problem. If there have been problems you do not have to issue the permit. You can put time restrictions on a Special Land Use Permit but not zoning. Mr. Kimbrough asked if anyone had any questions, no one did. Mr. Kimbrough called the first person in opposition to come forward to speak.

“Ms. Myrna Thompson stated her name and her address at 5955 Spring Street and stated she lives directly across the street from the house in question. I lived in Austell since I was about five (5) years old. I have never had to worry about anything. My house was secure, my street was secure, but there are eight single older women that live on this street. There are four handicapped people that live on this street. There are already six or maybe seven multi-family housing within our area. I am not as learned as these Council Members are and I don't know a lot about what some of these other people are trying to say but I have one question. Would you City Council and would Mr. Barnes want this house across the street from your family, from your mother if she is alone at night. They can say all they want to say. The Zomprelli house has never been a problem. I have lived in this house that is in question and I know the kind of people that live in these multi-family homes and I have lived in duplexes and apartments and there is nothing wrong with that but I know the quality of people who will live there and how they roam our streets. We have enough empty businesses in Austell as it is and do we want this kind of atmosphere in our city. I adjure you council do not allow this to happen. Mr. Mayor I know you live down the street and I know the Group Home has been a problem and there has never been a problem there before. Mayor Jerkins stated ever since he had lived there it had been a problem. Ms. Thompson stated, yes, this one, there was another Group Home before you ever moved on the street and it was never a problem. Mayor Jerkins asked Ms. Thompson if she would rather have another Group Home. Ms. Thompson stated if it was like the previous Group Home that was there before, yes, I would.

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Mayor Jerkins stated you would actually take a chance on getting another one. Ms. Thompson stated well Mr. Mayor like somebody said. Mayor Jerkins stated they have to do something with the house.

Ms. Thompson stated well, sell it. Mayor Jerkins asked to whom. Ms. Thompson stated to you. Mayor Jerkins stated what am I going to do with it, put a Group Home there? Ms. Boyd stated this is not our concern. Mayor Jerkins stated he couldn't stand another Group Home because he would move. Ms. Thompson stated she couldn't stand another apartment house.

Mayor Jerkins asked, why, the Zomprelli's have been there for forty-nine years. Ms. Thompson stated this may not be Zomprellis and are we willing to take a chance and I don't want to argue Mr. Mayor and this is what it is turning into to. Ms. Thompson asked are you willing to take the risk. Mr. Graham stated the lease could be terminated. Ms. Thompson said that's like the barn door being shut after the cow gets out and this is my question, would you want this house across the street from your family. Mr. Kimbrough asked if anyone had questions of Ms. Thompson. No one had any questions."

Mr. Kimbrough asked who would speak next in opposition. "Ms. Julie Gunter introduced herself and stated she lived on the side of the house in question. I have lived there eight years and it has never been a boarding house it was three apartments. Actually it was very nice. It was family owned for most of that time. Several different families lived in the house which was fine. It was a Group Home at one time and there were three mentally retarded young men who lived there and who were supervised. Every move they made was supervised by their caretaker. That was a fabulous arrangement and we had no problem with that. As far as these people running around the neighborhood and nine people stuffed in a house like that at least three people sharing one bathroom. What kind of a person would be willing to live in a place like that and are they going to have to have a job, probably not. I don't understand how the State could seize the property and make into a Group Home. Mayor Jerkins stated, the State would not seize the property. The State just comes in and puts a Group Home there. You can put it in any neighborhood. Six people to a Group Home the State can do this in any neighborhood. Mayor Jerkins stated we have been trying to close the other Group Home without success for two years.

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Ms. Boyd stated the difference between a Group Home and a Boarding House is they have someone living with them in the Group Home, twenty-four hours a day and seven days a week and no one would do that at the Boarding House. Mayor Jerkins stated, yes, and there are mental problems with the people running up and down the street. Ms. Boyd stated to Mayor Jerkins, you just stated you were trying to close it.

Mayor Jerkins stated, yes, I have and I can't get anything done about closing it. Ms. Gunter pleaded to please not have nine men in their neighborhood. We have some new businesses coming into the City of Austell and we welcome this and we need more businesses. We need a stable influence and it needs to be turned back into apartments. I don't like being threatened by the Group Home. Mayor Jerkins stated we have one there and there is no comparison between the two. Ms. Gunter stated the Zomprelli's place is fine and I think with the new ownership it will be o.k. Mayor Jerkins stated it will be the same type thing you have now. Ms. Gunter stated, no it wouldn't be. Mr. Kimbrough asked if anyone had any questions for Ms. Gunter. No one did. Ms. Thompson stated she spoke to the owner several weeks ago and he is trying to get this group of people out of the Group Home. You just have to go to the right person and Joel Gibbs is the owner of the house. Mayor Jerkins stated do you know how much he gets. Ms. Thompson stated it was none of her business how much he gets, she didn't wish to know. Mayor Jerkins stated that's why it would be attractive to put another Group Home in the neighborhood. Mr. Gibbs gets about thirty-five hundred a month and the house is worth about twelve thousand. If they wanted to, they could put a Group Home in the neighborhood and get thirty-five hundred a month out of it from the State. Ms. Thompson stated you mean Mr. Barnes could do this, Mayor Jerkins stated, yes, he could and all he has to do is call the State and he will get thirty-five hundred a month. Ms. Thompson stated she didn't think he would do that. Mayor Jerkins stated, well, Joel Gibbs is doing it. Ms. Thompson stated the Group Home that is there is regulated. Ms. Thompson stated, well, I spoke with Mr. Gibbs two weeks ago. Mayor Jerkins stated Mr. Gibbs will tell you anything and do you know how many times they have been rotated now. Chief Starrett can tell you we probably had fifty people there, different ones that have moved in and out. We arrested several and put them in jail.

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Ms. Thompson asked how many is several. Mayor Jerkins stated he didn't know but one lady there we arrested her for beating on one of the tenants in the home. There has been four or five arrest there and I just hate to see it get worse than it is.

Ms. Thompson stated the City of Austell needs to regulate some things. Mayor Jerkins stated we are trying and we can't do anything about it. They say they are closing it but they haven't yet and it has been going on over two years and we have gotten nowhere."

"Ms. Rachel Charles introduced herself and stated she had a letter from her husband Kurt Charles and they owned the property at 5928 Spring Street. My first comment is I would really like to see the neighborhood move upscale more and I really think the people have that desire and I really thought the Boarding House would be moving into the opposite direction. My husband letter is as follows:

"Dear Mr. Mayor and Council Members:

I regret a last minute obligation prevents me from appearing before you today. My name is Kurt Charles and my wife and I own the property at 5928 Spring Street. I am opposed to permitting a Boarding House at 5948 Spring Street. Some of the reasons of my opposition are obvious. The transition of owner occupied properties the community is negatively affected. Renter's whether they are yearly, monthly, or weekly are not as concerned about the property in which they live nor about the community in which they live. To meet the City services such as Police and Fire Services is no doubt greater as the number of occupants increase. Weekly renters which are the proposal are by nature less likely to make a positive contribution to the neighborhood. In recent conversations I have had with retired Police Officers they both stated they would not like to live near a Boarding House and expressed their concerns about community safety. Thank you.

Sincerely,  
Kurt W. Charles"

Ms. Charles stated she would like to reiterate your consideration of moving away from the multi-family homes, and have more upscale higher quality residential homes and businesses.

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Lord willing we are very close in spending a lot of money on our property and getting it fixed up and it is very discouraging to think a Boarding House will be going in two doors down from us. We would really appreciate your consideration in this matter. Mr. Kimbrough asked if anyone had any questions for Ms. Charles. No questions were asked.

Ms. Anderson stated she had a comment to make. Mayor Jerkins is quite adamant about not having another Group Home and speaks about the “in and out of people” and “over fifty people in and out”. I can see with week long leases this could very well happen and there is no guarantee. I am not aware of what kind of background checks you do if any because a lot of mental problems are not disclosed because of the privacy act on their medical records. So, there is really nothing to say but this would attract a lot of in and out traffic and possibly some mentally incapacitated tenants who would have no supervisor and this is my concern.

*Ms. Boyd moved the hearing to be closed. Mr. Traylor asked Ms. Byers if she thought the Boarding House could be downsized from eight units to six units to create extra parking. Ms. Byers stated, she didn't know because she had not talked with Mr. Barnes. Ms. Boyd stated to Mr. Traylor as far as our Ordinance she has ample parking. In our Ordinance it states one parking space per two people. Mr. Green stated this sounded like an outdated Ordinance and something we need to look at. Mr. Kimbrough stated the motion was made to close the public hearing. Seconded by Ms. Reagan. Motion passed (6-0).*

Ms. Boyd stated the Department of Community Affairs has received a request from Ray Barnes of Razor Properties LLC for a Special Land Use Permit on property located at 5948 Spring Street, in LL 92, parcel 67 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County.

The Special Land Use Permit will allow Mr. Barnes to operate a boarding house on the above-mentioned property in its current zoning of General Commercial.

*The Planning and Zoning Commission voted unanimously to recommend the Mayor and Council deny Mr. Barnes' request on October 21, 2008, (4-0).*

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Ms. Boyd stated the Special Land Use Permit gives us the authority to turn down zoning as well as to approve zoning. At this time I make a motion to deny Mr. Barnes' request for a Special Land Use Permit. Even though I know Ray and I know he is a fine man and owns other property in the City of Austell. I am concerned Mr. Barnes may not always own this property and we have seven (7) multi homes in the area with eight single women in the community.

*Ms. Boyd moved to follow the recommendation of the Community Affairs Committee to deny the request from Mr. Barnes to operate a Boarding House. Seconded by Ms. Anderson. Motion passed (5-1) Mr. Traylor voted against.*

- C. In appreciation of Joe and Georgia Monnerat for years of service.  
Mayor Jerkins presented Joe and Georgia Monnerat with a plaque and thanked them both for their years of service at the beginning of the meeting.

**14. CITY ATTORNEY – DUPREE AND KIMBROUGH**

A. Amendment to Ordinance – Alcohol

Mr. Kimbrough read the Amendment to the Alcohol Ordinance. (Please see attached Amendment to Ordinance - Alcohol).

*Ms. Reagan moved to follow the recommendation of the Police Committee to approve the Amendment to the City of Austell Code of Ordinance to change the hours and days for sale and purchase of alcohol as stated by Mr. Kimbrough. Seconded by Mr. Green. Motion passed (4-2).*

Ms. Boyd stated she had a question. This will allow for any business in the City of Austell to stay open on Saturday night until 2:55 a.m. on Sunday morning and on Sunday morning until 2:55 a.m. on Monday morning. In other words they can stay open all day Saturday till 2:55 a.m. on Sunday morning and they can stay open from Noon on Sunday and stay open till 2:55 on Monday morning. Mr. Kimbrough stated the only difference in distinction there the only entities that can sell alcohol on Sunday until 2:55 a.m. Monday morning would be the ones that derive at least fifty percent of sales of non-alcohol items. Ms. Boyd asked and who would control and check to see how much food they are selling and is this a State requirement that keeps up with how much they are selling.

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Mr. Kimbrough stated it was the City of Austell duty to check on how much food they sell. Ms. Boyd asked who was going to do this and have we ever done this before. Mr. Kimbrough stated it should be the City who checks.

Ms. Boyd asked if is it a State requirement. Mr. Kimbrough stated, no, it is a City requirement. Ms. Boyd stated, so, we are to police this. Mr. Kimbrough stated, yes. Ms. Reagan stated maybe we need an auditor to go in and check the books.

Mayor Jerkins stated you cannot check the books but you can check the receipts. They need to be ringing up food separate. If they are not what are you going to do. Ms. Boyd stated then we can pull their Business License. They have to prove fifty percent food vs. fifty percent alcohol. Mr. Green stated we could pull their and stop them from selling on Sunday. Ms. Boyd stated not just Fat Cats but everyone that sells alcohol and changing the hours for everyone. I just don't agree as to selling alcohol on Sunday morning. All the other communities such as Smyrna, Douglasville don't sell on Sunday. I don't have my notes with me and what are they Ms. Anderson. Ms. Anderson stated she would like to reiterate and this goes back months and you have heard it before. This originally came up as what I was told and the way I understand it. The businesses in Austell were losing business to surrounding businesses because they could not sell alcohol as late as the businesses in the surrounding areas could. This is particularly in regards to Sunday. When in fact on Sunday in Powder Springs they need to close at 10:00 P.M, in Douglasville they need to close at 10:30 P.M., and Douglas County serves no alcohol, in Smyrna they need to stop serving at 12:00 which was our City of Austell code and in Cobb County they need to quit serving at twelve. In essence, the original reason was they were losing business and this holds no water because they are not losing business to anyone in the surrounding areas. I would also like to say Smyrna, Marietta their time is 12:00 P.M. and their businesses do wonderful business and they really have worked hard on their downtown and they have some great restaurants and I don't think our businesses are going to be hurting because they don't serve alcohol until 2:55 A.M. in the morning. Ms. Reagan stated she would like to say again, in Smyrna you can purchase a late hour permit and stay open till 4:00 A.M. Ms. Anderson sated to Ms. Reagan you are correct and I have City of Smyrna's here in front of me. Mr. Thomas stated he would like to call for the question. Mayor Jerkins stated Mr. Thomas called for a question and that means we have to vote stop discussing the subject.



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*Ms. Reagan moved to follow the recommendation of the Police Committee to approve the Amendment to Ordinance – Alcohol. Seconded by Mr. Green. Motion passed (4-2). Ms. Boyd and Ms. Anderson voted against.*

**B. Identity Theft Prevention Program**

Mr. Kimbrough stated he would not read this in its entirety.

Basically, it is a Federal Mandate that all municipalities and county governing authority that provide utilities adopt this which just sets in place a program and methods through which identity theft can be recognized and handled. Mr. Kimbrough stated we need to adopt this Program

*Mr. Traylor moved to follow the recommendation of Mr. Kimbrough to approve the Identity Theft Prevention Program. Seconded by Ms. Reagan. Motion passed (6-0).*

**15. MAYOR'S REPORT**

- |    |             |                             |
|----|-------------|-----------------------------|
| A. | CMA Meeting | Off/No Meeting will be held |
|    | DATE:       |                             |
|    | TIME:       |                             |
|    | LOCATION:   |                             |

**16. ADJOURN**

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