

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, MARCH 7, 2016**

Present: Mayor Joe Jerkins  
Kirsten Anderson  
Valerie Anderson  
Ollie Clemons  
Randy Green  
Sandra Leverette  
Scott Thomas

The regular meeting of the Mayor and Council was held on Monday, March 7, 2016 at 7:00 P.M. at City Hall.

Also present were: Scott Kimbrough, City Attorney; Carolyn Duncan, City Clerk; Denise Soesbee, Finance Director; Randy Bowens, Public Works Director; Jim Graham, Community Affairs Director; Pat Maxwell, Fire Chief; and Bob Starrett, Police Chief.

**1. CALL TO ORDER**

Mayor Jerkins called the meeting to order and Pastor Tim Ridgeway gave the Invocation and Mayor Jerkins led the Pledge of Allegiance.

Mayor Jerkins asked if anyone had items to add to the Agenda. Ms. Valerie Anderson stated she would like to add 13H. – Atlanta Regional Commission Community Choices Program.

*Ms. Kirsten Anderson moved to follow the recommendation of Mayor Jerkins to add Item 13H. – Atlanta Regional Commission Community Choices Program to the Agenda. Seconded by Mr. Thomas. Motion passed (6-0).*

**2. CONSENT AGENDA – INFORMATION AND UPDATE**

(No Action Required by Council – See Specific Department Director before the Meeting.)

**3. CONSENT AGENDA**

- A. Approve Bills
- B. Approve Legal Bills \$5,463.59
- C. Approve Minutes of Regular Council Meeting February 1, 2016

*Mr. Clemons moved to follow the recommendation of Mayor Jerkins to approve the Consent Agenda. Seconded by Ms. Valerie Anderson. Motion passed (6-0).*

**4. EXCEPTION TO CONSENT AGENDA**

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**5. CITIZENS REPORT**

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

Mr. Luke Lanta stated his name and stated he lived at 4302 Northside Court in Smyrna, Georgia. He stated he was here to introduce himself to the Mayor and Council and stated he is a candidate for the State Court Judge in Cobb County. He stated he is an Attorney in Smyrna, Georgia and is married to his high school sweetheart and has two daughters. Mr. Lanta stated with his experience and his dedication he would be the best candidate for the State Court Judge in Cobb County. Mr. Lanta thanked the Mayor and Council for their time. Mayor Jerkins thanked Mr. Lanta for coming to the meeting.

**6. GAS SYSTEM REPRESENTATIVE**

**JOE JERKINS**

Mayor Jerkins stated he said at the Pre-Agenda meeting gas sales were off by a lot. As a matter of fact sales are off by eleven million dollars, because of cheap gas and a warm winter.

**7. FINANCE DEPARTMENT**

**OLLIE CLEMONS, CHAIRPERSON**

**Denise Soesbee, Finance Director**

- A. Financial Report
- B. Computer Equipment Purchases

Mr. Clemons stated the purpose is to approve attached Invoices for purchase (1) three year license of antivirus software (93) computers and (2) purchase of three new computers for Finance.

The City has been advised by Intandem, LLC the licenses for our current antivirus software has expired and is out of date. The Finance Committee is proposing the purchase of 93 licenses for all computers throughout the City at a cost of \$5,115.00. This purchase will be charged to account number 100/1565 52.2200 repairs and maintenance.

The current computers for the Utility Billing Supervisor, Front Desk Clerk, and Finance Director are not adequate to support the processes ran in the new Edmunds accounting software and therefore needs to be replaced. The cost for these three computers is \$4,220.00 to be charged to account number 325/4440 54.2400 other equipment.

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*Mr. Clemons moved to follow the recommendation of the Finance Committee to approve these two invoices for payment. Seconded by Ms. Valerie Anderson. Motion passed (6-0).*

**8. GENERAL ADMINISTRATION  
SANDRA LEVERETTE, CHAIRPERSON  
Carolyn Duncan, Director**

A. No Report

**9. POLICE DEPARTMENT  
OLLIE CLEMONS, CHAIRPERSON  
Bob Starrett, Police Chief**

A. Police Report  
B. Code Enforcement Report

**10. FIRE DEPARTMENT  
RANDY GREEN, CHAIRPERSON  
Pat Maxwell, Fire Chief**

A. Fire Report

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

A. No Report

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

A. 2016 SPLOST Equipment  
Mr. Thomas stated the City of Austell Parks Department has received estimates for new Parks equipment as part of an approved 2016 SPLOST project. The estimates are as follows:

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2016 Chevrolet Silverado 25 John Thornton Chevrolet	\$36,825.96
2015 Isuzu Landscape Truck Rush Truck Center	\$48,634.63
Mini Excavator Cobb County Tractor	\$41,000.00
2016 4300 SBA 4X2 2 Ton Dump Truck Rush Truck Center	\$85,368.40

The total estimated project cost is:  
\$211,828.99

*Mr. Thomas moved to follow the recommendation of the Parks Committee to approve the proposed SPLOST equipment project and the financing of that project through Republic First National, which the City of Austell has been pre-approved for financing. The finance payments will be met using only those funds received from the SPLOST program. Seconded by Ms. Kirsten Anderson. Motion passed (6-0).*

**13. COMMUNITY DEVELOPMENT  
VALERIE ANDERSON, CHAIRPERSON  
Jim Graham, Director**

**A. SLUP 1950 Royal Industrial Blvd.**

Ms. Anderson stated the Department of Community Affairs received a request from Clark's Towing Inc. for a Special Land Use Permit on property located at 1950 Royal Industrial Blvd., in LL 1303, parcel 16 of the 19<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County.

The Special Land Use Permit will allow Clark's Towing, Inc. to operate a towing business on the above mentioned property in its current zoning of Light Industrial.

The Planning and Zoning Commission voted to recommend the Mayor and Council approve the application from Clark's Towing, Inc. with the stipulations below on February 16, 2016, (6-0).

**Stipulations:**

1. Property to be used to operate towing service only.
2. No impounded, towed, or confiscated vehicles shall be allowed on the lot at any time, except a couple of vehicles at a time to be stored no more than 3 days.
3. The only equipment allowed to be parked on the lot will be that which is used by Clark's Towing in its day to day operation as a towing service.

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4. Repairs of trucks will not be allowed on the property.

Ms. Anderson stated she would like to turn this over to Mr. Kimbrough, City Attorney stated at this time I would like to call for a Public Hearing. For a request for a Special Land Use Permit located at 1950 Royal Industrial Blvd., in LL 1303, parcel 16 of the 19<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County. Mr. Kimbrough asked who was present to speak for Clark's Towing. Mr. Kimbrough asked Mr. Graham if anyone had signed up in opposition. Mr. Graham stated no one signed up to speak.

Ms. Lisa Marchower stated her name and stated she was the Attorney for Clark's Towing, Inc. Ms. Marchower stated she and her client attended the Planning Commission meeting. We did agree to the conditions and stipulations. The only thing I would like to mention and we did speak with Mr. Graham about this and he was agreeable with it. The office space and I am not sure if this has to be in the terms and conditions because it mainly states about the parking lot that is fenced in. There could be some office spaces rented out and that would be vehicles parking in front of the building because it is such a big building. There are ten office spaces in the building. We have agreed to the stipulations and just in case and for the record if you do deny it I would like to make a constitutional objection and this something legally I need to do for my client. I also would like to state if you do deny the application it would constitute violation of my client constitutional rights to due process equal protection the right to this property. It would be arbitrary and unreasonable as well discriminatory. We appreciate your approval on this, as it meets all of the criteria proposed.

Mr. Kimbrough asked Ms. Marchower if she agreed with the stipulations that were read previously. Ms. Marchower stated, she agreed. Mr. Kimbrough stated if no one has any questions I entertain a motion to close the Public Hearing.

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

*Ms. Valerie Anderson moved to follow the recommendation of the Planning and Zoning Commission to approve the Special Land Use Permit. Seconded by Ms. Kirsten Anderson. Motion passed (6-0).*

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**B. Rezoning 5810 Maxham Road**

Ms. Valerie Anderson stated the Department of Community Affairs has received a request from Habitat for Humanity of Northwest Metro Atlanta, Inc. to rezone the property located at 5810 Maxham Road, in LL 28, parcel 5 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County from Neighborhood Shopping to Planned Unit Development. The proposed use of the property will be an 18 lot single family residential subdivision.

The Planning and Zoning Commission voted to recommend that the Mayor and Council approve the application from Habitat for Humanity of Northwest Metro Atlanta, Inc. with the stipulations below on February 16, 2016, (5-1) with Don Foster opposing.

**Stipulations:**

1. Sidewalk to be installed on opposite side of waterline.
2. Street Lights to be installed.
3. Entrance to be right in right out. (requirements from Public Works attached)
4. Front elevations of homes to be approved by the Community Affairs Department.
5. Siding to be concrete fiber board, i.e. hardy board.
6. Parking to be located in the rear of the homes.
7. A small playground to be installed in open space area of subdivision.

Ms. Anderson stated she would like to turn this over to Mr. Kimbrough for a Public Hearing. Mr. Kimbrough stated at this time I would like to call for a Public Hearing to rezone the property located at 5810 Maxham Road, in LL 28, parcel 5 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County from Neighborhood Shopping to Planned Unit Development. Mr. Kimbrough asked who was present to speak on behalf of Habitat Humanity.

Mr. David McGinnis stated his name and stated he was the representative for Habitat for Humanity. Mr. Kimbrough swore in Mr. McGinnis.

Mr. McGinnis thanked the Mayor and Council for the presentation. Mr. McGinnis stated I have come before you for a proposal for an 18 lot single family residential subdivision. If you are familiar with the acreage tract it is an eight acre tract. When the flood came through in 2009 the flood plain maps were re-adjusted approximately three acres were included in the flood plain in the back.

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That leaves a little over five acres for the development which hopefully you have seen in the proposed plans. For those of you who are not familiar with who we are, we provide not only the acquisition of the development of the land; we build the houses and sell the houses to our families. Most of who are middle income families average income of about forty-five thousand dollars \$45,000.00. in gross. We do sell the homes to the families and they are sixteen hundred square foot houses that are requested a variance for. Those homes will be financed at no interest with the term for twenty (20) years. We build a house we sell a house and we carry the mortgages and maintain all for the families for the duration of the time. We did meet with the Planning and Zoning Committee and the only thing I will tell you we are concerned with is the conversation we had with the Planning and Zoning Committee. It is the playground backing up against the trailer park that is there. The concern came from not the opposition but from the comments that were made and the families coming through from the existing subdivision. To build a subdivision is one thing but a playground there in the back I am not so certain it would be long lived. We are willing to work any way we can to make you proud of what we build and to enhance the community. I will be glad to answer any questions you may have.

Ms. Kirsten Anderson stated she had a question. Ms. Anderson stated so we are talking about putting eighteen (18) homes on five (5) acres. Mr. McGinnis stated, that is correct. Mr. Green asked Mr. McGinnis what happens if you give a twenty year loan to someone and they are not able to pay it. If they don't pay it we will abide by all the mortgage rules and regulations the Federal Government mandates. If they don't pay it we take it back and go in and completely rehab the house and put another habitat family in it. I will also tell you the covenants that are attached to the deeds there are certain mandates that will cause a default. We will not tolerate any domestic crimes. We will not tolerate any activities unbecoming to the community as well as non-payment. Criminal activity aggravates the default provision. I have spent thirty years in banking before I came to work here. Reluctantly you have to foreclose, but when people do not abide by the rules this is exactly what I do. Ms. Valerie Anderson asked Mr. McGinnis if he could put less than eighteen homes there. Mr. McGinnis asked can we, yes we can. If we can build the number back it pushes the per lot price up beyond where we can accommodate the families. This is how we derive the eighteen lot number in order for the purchase price to be able to develop the property out and accommodate the family with the price of housing. Ms. Anderson asked so why can't you put eighteen hundred square feet instead of sixteen hundred feet?

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The eighteen hundred square foot house pushes the cost of the house up beyond where the families can afford them. The cost of the house and including the land will run about a hundred and ten thousand dollars. The houses will appraise between one hundred thirty and one hundred and forty range. If you go to an eighteen hundred square foot and the numbers I just gave you are predicated on fifteen hundred forty-seven square feet range. We are moving up to the sixteen hundred per the request. To move to an eighteen hundred takes the house totally out of range. The family can only allocate thirty percent of their income into a mortgage and this is what we stay on. Ms. Leverette asked Mr. McGinnis how you pick and choose who lives in these homes and what are their qualifications. Mr. McGinnis stated the families apply for two things. They apply to participate in the Habitat program and then there is a period where we go through to check their credit. Also, their ability to pay and their willingness to pay. Once they work their way through and qualify then they have to work a hundred hours on someone else's home and a hundred hours on their home and then they have to take about a hundred hours of classroom learning how to take care of houses. Once they have completed that and once they have saved about a thousand to fifteen hundred in cash to put down on their own then they apply for their mortgage. If they go by all the rules and complete everything then they qualify for the mortgage and we go to work on their home. Currently, there are four hundred people waiting to make application. When we work our way through there we will open our application process in churches, and community programs where families can apply. Ms. Valerie Anderson asked if there are second mortgages on the homes. Mr. McGinnis stated the first mortgage will be the Habitat Mortgage that we have. The CDBG that you were speaking of through the home funds comes through HUD. They provide a first time home buyer and that is a regulation and requirement they provide a mortgage of ten thousand dollars. This is paid over a fifteen year period. To put into prospective a family that buys one of our houses will have probably an eighty to ninety thousand dollar mortgage. Their mortgage payment which is principal only and no interest and including escrow and insurance will run five hundred and twenty-five to five hundred and fifty dollars a month. This is the first and the second mortgage. Then when you put a third mortgage on the property which is the difference between the sum of the first and second and the appraised value of the home. The purpose of that is to keep the homeowners from flipping the house. When we put forth the effort and the sponsors come forth to provide the money on a home we do not want them going out to flip the home and getting the equity of that home. They earn that equity every month when they make their payment. So at the end of the time they have earned all the equity that is in that house.



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Ms. Valerie Anderson asked Mr. McGinnis if there would be parking in the front of the home or the back. Mr. McGinnis stated per the requirements they will be parking in the rear.

Ms. Leverette asked will there be two to three in a family? Mr. McGinnis stated it will vary. We will have some that is single family all the way up to a family of five. Ms. Leverette asked is there a limit. Mr. McGinnis stated no, there is no limit.

Ms. Kirsten Anderson stated she had a question, after the subdivision is built and the people are living in there do you have a coalition are do you have someone to police the property to make sure they are kept up. Do you have to have home insurance who makes them put a camera in to take pictures every year or you just concerned with the financial obligations being met. Mr. McGinnis stated once the families move in we monitor and maintain that during the life of the loan. We have a family selection support team who will be driving through to make sure everything is like it should be. If you live there and you don't cut your grass we will knock on your door and give you twenty-four hours to cut the grass. If you don't comply, then unfortunately we will do whatever we have to do. I don't mean to be authoritative but this is my opportunity to change their life. We are giving them a new home and we expect them to abide by the rules.

Mr. Kimbrough asked if anyone else had any questions, no one did. Mr. Kimbrough asked Mr. Graham if he had anyone to speak in opposition. Mr. Graham stated, yes, he did Mr. Brent Green, Ms. Trudie Causey and Ms. Suzanne Thomason. Mr. Kimbrough asked if Mr. Green was present and Ms. Thomason. Ms. Causey stated Ms. Thomason had to work late and would not speak. Mr. Chapman who was in the audience asked if he could speak. Mr. Kimbrough stated no, because you have to sign up before hand. Mr. Kimbrough asked Ms. Causey to come forward to speak. Mr. Kimbrough swore-in Ms. Causey.

Ms. Causey stated she would like to oppose this rezoning. Number one eighteen homes on five acres is too much. The values of the homes in Austell and why would we want to go down instead of moving up. The traffic on Austell Road and Maxham Road is already horrible. As Mr. Green has already stated at the zoning meeting we have already had a gentleman that was on the back of a garbage truck and his legs cut off by another car due to the traffic. We own a business in East Point and we had two Habitat homes right down the street from our business and are not kept up.

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The properties are full of stuff on the front porches and they are not well maintained at all. One of my main concerns is the property values and how it will affect our property values and then you have to think about the schools. When people look at the City of Austell as far as the values and what our schools are doing and we have so many children that are already in reduced lunches. So how many more is that going to bring to our schools? So what is going to happen to Austell next? Just a thought I do hope you will take this into consideration and say no or at least make this development smaller or postpone it and have a meeting with concerned citizens and see what we can work out. Mr. Kimbrough asked if anyone had any questions for Ms. Causey. No one did. Mr. Kimbrough asked if Mr. McGinnis had anything to add. Mr. McGinnis stated he did not.

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

Mr. Green stated he did research on this and I spoke with a Real Estate Appraiser. As far as the value of your property there is a consideration that says it is not considered a fair market value sale so they can't use it as an appraisal on your property. Also, I heard it before and I heard from someone on our Council that three out of four properties were not taken care of very well. The professional appraiser that I spoke with made the statement that within a ten year period the homes would not look like what we want in the City of Austell.

Ms. Valerie Anderson stated the reason I want to deny this is because I feel it is too many homes in a subdivision on five acres. Usually, we recommend eighteen hundred square feet. I feel if we approve the sixteen hundred square feet and we don't approve for someone else I don't feel that is right. Mr. Clemons stated he agreed with Ms. Anderson and also along with the opposition here and as far as the organization Habitat for Humanity is a great organization. They provide home ownership for a lot of people who would otherwise not be able to have a home. I really admire the organization and what they do for people in that sense. Although I do believe there are some cases where as this development is not good for the area. That is the case here. We have some communities near here that pay twice as much for their property and they live a stone's throw away. We have neighbors in these communities concerned about a development coming up like that where you have more Habitat multiple homes in one area. I can say for myself I have worked on a Habitat home and it was a privilege for me and an excellent experience. But, it was an area that had several Habitat homes.

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The care of those homes was very inconsistent and not kept up at all. This does nothing for homes that have already been devalued as a result of the market crash a few years ago and in putting up properties that are much lower. I do not believe this is a good project for the City.

*Ms. Valerie Anderson moved to follow the recommendation to deny the Rezoning at 5810 Maxham Road. Seconded by Mr. Clemons. Motion passed (6-0).*

C. Rezoning SLUP 1953 Royal Industrial Blvd., (Information Only) Application withdrawn

Ms. Anderson stated the rezoning and SLUP application for 1953 Royal Industrial Blvd., was withdrawn by the applicant.

D. 2016 Zoning Map

Ms. Anderson stated the Department of Community Affairs recommends approval of the attached zoning map. The zoning map has been updated to reflect those properties that have been rezoned and annexed.

The Planning and Zoning Commission voted to recommend the Mayor and Council approve zoning map on February 16, 2016, (6-0). I would like to turn this over to Mr. Kimbrough, City Attorney for a Public Hearing.

Mr. Kimbrough stated he would like to open the Public Hearing in the matter of the Zoning map. It is memorializing the current status of all the properties in the City of Austell. Mr. Kimbrough asked Ms. Anderson if anyone would like to speak on behalf of the City are is it just what you have stated. Ms. Anderson stated it is what I just stated. Mr. Kimbrough asked if anyone had signed up in opposition of the 2016 Zoning Map. No one did. Mr. Kimbrough asked if anyone had any questions. No one did.

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

*Ms. Anderson moved to follow the recommendation of the Community Affairs Committee to approve the 2016 Zoning Map. Seconded by Mr. Clemons. Motion passed (6-0).*

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E. Blight Tax Ordinance

Ms. Anderson stated the Community Affairs Committee recommends approval of the attached amendments to the City of Austell Code of Ordinances.

The Blight Tax Ordinance will enable the City of Austell to raise funds to be used for redevelopment purposes by taxing those properties that have been designated as being maintained in a blighted state. The tax rate for those properties will be calculated by multiplying the currently adopted millage rate by a factor of seven.

*Ms. Anderson moved to follow the recommendation of the Community Affairs Committee to approve the Blight Tax Ordinance. Seconded by Ms. Kirsten Anderson. Motion passed (6-0).*

F. Façade Grant Program

Ms. Anderson stated the Community Affairs Committee recommends approval of the attached Façade Grant Program.

The purpose of the Façade Grant Program is to provide for investment in the City of Austell Central Business District. The program will be funded primarily using funds from the Community Development Block Grant. The awards will be a fifty percent matching grant to a business or building owner to complete façade improvement projects. The primary goal of the program is to spur sustainable economic development in the downtown Austell area.

*Ms. Anderson moved to follow the recommendation of the Community Affairs Committee to approve the Façade Grant Program. Seconded by Mr. Green. Motion passed (6-0).*

G. Atlanta Regional Commission Community Choices Program

Ms. Anderson stated the Community Affairs Committee recommends approval of the attached Resolution. The Resolution will authorize the Mayor to sign the application for technical assistance from the Atlanta Regional Commission. The technical assistant will enable the City of Austell to create an inventory of sight development for re-development.

Ms. Anderson moved to follow the recommendation of the Community Affairs Committee to approve the Atlanta Regional Commission Community Choices Program. Seconded by Mr. Clemons. Motion passed (6-0).

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H. Block Grant Program

Ms. Anderson stated the Community Affairs Department recommends approval of the Block Grant Program.

*Ms. Anderson moved to follow the recommendation of the Community Affairs Department to approve the Block Grant Program. Seconded by Mr. Green. Motion passed (6-0).*

**14. ATTORNEY, DUPREE & KIMBROUGH**

A. No Report

**15. MAYOR'S REPORT**

A. CMA MEETING

APRIL 12, 2016

TIME:

6:30 P.M.

LOCATION:

Hosted by City of Kennesaw

B. Title Ad Valorem Tax (TAVT)

Mayor Jerkins stated the Title Ad Valorem Tax (TAVT) law effective since March 1, 2013, redefined the collection and disbursement of motor vehicle taxes. Unlike the disbursement of ad valorem tax which is based on millage rates, the TAVT disbursement formulas are based on census for counties and municipalities, and student enrollment for schools. Per Georgia DOR rules and regulations Chapter 560-11-14-03, the County Tag Agent, they are required to obtain written agreement from municipal governing authorities as well as the local and independent school boards for the purpose of allocating and disbursing TAVT proceeds.

*Ms. Valerie Anderson moved to follow the recommendation to approve the Title Ad Valorem Tax (TAVT). Seconded by Ms. Kirsten Anderson. Motion passed (6-0).*

**16. ADJOURN**

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