

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, OCTOBER 2, 2017**

Present: Kirsten Anderson  
Valerie Anderson  
Mayor Pro Tem Ollie Clemons  
Randy Green  
Sandra Leverette  
Scott Thomas

Absent: Mayor Joe Jerkins

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

- **CALL TO ORDER**

Mayor Pro Tem called the meeting to order and Pastor Bailey, Gospel Nation Christian Fellowship Church gave the Invocation and Mayor Pro Tem led the Pledge of Allegiance.

- **CONSENT AGENDA – INFORMATION AND UPDATE**

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

- **CONSENT AGENDA**

- Approve Bills
- Approve Legal Bills \$3,980.70
- Approve Minutes of Regular Council Meeting September 18, 2017

*Mr. Randy Green moved to follow the recommendation to approve the Consent Agenda. Seconded by Ms. Sandra Leverette. Motion passed (5-0).*

- **EXCEPTION TO CONSENT AGENDA**

- **CITIZENS REPORT**

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

Mr. Ian Simpson stated his name and stated he was the representative of Lithia Springs Water, LLC. I am the president of Lithia Springs Water, LLC. I am here for a serious grievance I have as a business here in Austell. I have lived in California but I am here now. We are actually going into production very soon. We are going to revive the historic Lithia Springs which we seriously believe it will be an important landmark in Austell. We have had constant problems with the City of Austell. I brought with me tonight one copy of our grievances. We have two major grievances, and I would like to read these out to you if you don't mind. We are in the business of the rarest pristine mineral waters in the world. It is a very popular water and has been bottled over the last five years. We literally have thousands of orders over the United States. We are actually featured in New York Times magazine a number of years ago. It has been an unbelievable response.

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I believe we are an important asset to the community and to the City of Austell. However, we are simply going out of business because of the problems we have been having with the City of Austell. It has to do with the park and the natural flow of water has changed. I would like to read this to you and you all have a copy of this.

Honorable City Council Members the Lithia Springs Water, LLC is a business and has been severely injured by the actions of the City of Austell. As such, we are in the process of preparing litigation against the City of Austell for irreparable damage and financial damages caused by a private property business located within the City limits of Austell, Georgia. I am going to tell you what those problems are. For many years and we have the letters attached here two of them that go back over ten years. This is ridiculous! I am from California and we don't do business like this. We just litigate usually. I am not that type of person to do that. I would like to tell you what the problem is. The City of Austell has violated Lithia Springs Water, LLC, in repairing water ways. There are real strict laws about the water rites on private property in Georgia and in the United States. Our business is pure pristine Lithia Springs water and we must maintain a low ground water levels to prevent contamination in the springs. On August 27, 2010, Jim Graham, City Engineer, was placed on notice by Richard Kingsbury, Jr., professional geologist stated the rising high ground water levels was of great concern stated on the attached letter. This is a person with a degree in geology and works for a famous company in Atlanta. The main reason for the land's elevated ground water was caused by what the City built landfill which is a walkway and actually acts as a dam. This dam which is six or seven foot high has blocked a natural flow of water into Sweetwater Creek. This is a violation of water rights and it is illegal to block the natural flow of water without the permission of the adjoining landowner. Now seven years later after the notice was given and we have repeated and stated this problem our spring number two is under water and there is no hope ever to make this spring commercially viable for lithium water. We have two springs and this is our second spring and this constitutes half of our future profits. The financial impact to our business is extremely significant it represents a loss of over twelve million dollars a year in revenue. How do we account for this loss because it is per gallon basis and the geologist has google mapped and seen the alterations and we have all this documented. I don't want to go into this but we have actually contacted an Atlanta Attorney who specializes in repairing of water rights. They have told us there is many Supreme Court rulings in Georgia that have favored property owners that were violated. It is also on the internet as well. The second problem we have is the sewage hookup line. This letter goes back to April 11, 2006 and we were told by the City of Austell in writing that they would connect a new sewer line at no cost from 2006. Please see the attached letter to Gleda James. In addition the letter states an easement will not be needed because

all the work will be on the City property “quote” “unquote” this was eleven years ago.

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We have asked the City numerous times throughout the years to honor the promise. It has not been kept. It has been delayed and delayed. How does that affect us we are a business and we need a sewer. The Georgia Agriculture Department requires it as well. So if we don't have it we are not in business. These are the two problems and there is a third problem recently the City built a road through our private property. Took our beautiful lawn that was there and ripped it apart and put down gravel and put it to Frog Rock. I was amazed and I said, why did you do this? And there was no excuse no nothing. What really amazed me was when the promise was made they would right the wrong and it took months and months. And now after it has been done they didn't do a very good job. The guys came in there and I asked whoa, what is that? I am not satisfied. The problem is when they ripped that road they created a water fill area and when the water fills up right below the spring house we get ground water. This is our producing spring and this is the one we make our money. We have our pumps running all the time and we have our pumps outside the spring house. It is the actual 1888 spring house which is designed with pumps on the outside to pump water from the ground because you don't want ground water coming in. Those pumps are working overtime and they did come and I appreciate that Jim. They came and they fixed it and fixed it rapidly and they did a great job. I was amazed. Why should I the person being violated be on the defensive? Why should I, say o.k. I am satisfied. I am not satisfied because it is a business thing and it's about money. And, for us to have put a half of a million dollars in the place and not be able to produce money and then present a law suit and I really don't want to do it. I want action and if it's not going to happen and that is what the City of Austell decides then that is fine and we will take you to court. It is not right and I don't think it is reasonable for anyone to think about litigation. When it is your business and it is your livelihood and your life's investment put into the business I have no other recourse. I am not going to get agitated and mad because I am passed all that. I am at the last point. This is the document and I don't expect any answers today but what I propose is for you to come down and see for yourself. Please make an appointment with me and come down and see what is really happening. I like to add that road pathway has an illegal landfill. It is not EPA permissible. I couldn't believe that either. There is concrete in it and there is asphalt, metal from God knows where. I don't even know where that landfill came from. That is a serious problem to the City of Austell. All I know I would like to see some action taken and I would like some support. I believe we are going to be a major contributor to the community and we want to be. We don't even need help we just need what is right. We need the City to stand up and say let's do what is right. That's it folks and that is my little spill and we have geological records that go back five years now. They are factual and they are in professional hands. Thank you all for letting me stand up here and I didn't

wish to bring this publically but it is my livelihood and my family investment. We take the business really serious. Thank you all.

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Mr. Simpson stated he hoped to hear from someone soon. Mayor Pro Tem assured Mr. Simpson he would definitely hear back from someone. I will also make this information available to every Council Member. Mr. Simpson stated I would love for every Council Member to come down and understand the magnitude of the situation. This is not a light topic. It is a serious topic.

Ms. Kirsten Anderson stated she had a question. I don't know if this is for Mr. Graham or Mr. Bowens. Ms. Gleda James did mention to me on several occasions about the sewage. Is there a problem with this issue on the sewage? Mr. Bowens stated no we don't I went down and met with Mr. Simpson about three weeks ago. Mr. Simpson stated about a month ago. Mr. Bowens stated o.k. about a month ago and decided then on a course of action. We will sub out that particular part out and dig down on that manhole and make a tap for it. We are only required to put the line from our property line to his property line. Mr. Simpson will have to run his line from his house to that tap. Then we actually discussed putting a meter there. There is no water meter there and hasn't been for years. We haven't pushed that issue but we will once we attach the sewer. Mr. Simpson stated the only thing I am going to say this is timely. We have been trying to do this for a long time. Ms. Anderson stated I know it has been years. Mr. Bowens asked Mr. Simpson how long have you owned the business. Mr. Simpson stated I have owned it for ten years. I was there when the flood happened. Mr. Simpson stated the deal I see, I just need help. The Council thanked Mr. Simpson.

Mayor Pro Tem Clemons asked if anyone else would like to speak to the Council tonight.

Ms. Monica Delancy stated her name and stated she would like to inform everyone this week is pre-k week. On October 2, 2017. If you can go by pre-K academy and visit with the children. I know they would appreciate it if elected officials would come by. The topic I would like to speak on is the housing situation in Cobb County. On Tuesday and Thursday the Cobb County Magistrate Court holds eviction court. They have a 9:00 A.M. call time and a 1:00 P.M. call time. I guaranteed they have a hundred cases on their docket. This is primarily effected renters. The renters in the area are known in primarily South Cobb area and the renters are known to pay 50% of their income on rent. I do know there are housing options available for workforce housing. Workforce housing is for blue collar workers which are salaried and make above forty thousand dollars a year. But, there is no such thing as extreme low income housing in Cobb

County. Who would qualify for low income housing? That would be your Cobb County School District employees. Which would be cafeteria workers, para pros making less than twenty thousand a year. This is workers who work at Six Flags Amusement Park.

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The workers at Six Flags and White Water make less than twenty thousand a year. Also, that is people who work at the Braves Stadium right here in Cobb County who make less than twenty thousand a year. So, if you look at this number who work in Cobb and they pay thirty percent of their income goes toward rent. So this means they would have to find a two bedroom apartment for less than six hundred a month. This is very rare in Cobb County. Most of those if you are lucky enough to find for six hundred a month are what we call subpar housing. What this means is you have a roof, windows, and that is about it. You would not have any amenities and you might not even have maintenance. The most people who file eviction are the corporate owners who own the big apartment complexes. They file on the fifteen of the month. If it is a Mom and Pop they usually can work it out on the rent. Corporate landlords are totally different. This is why the case loads are so high in Cobb County. It is extremely high now because the Cobb County legal aid is hosting an eviction clinic at the library on Roswell Road every Wednesday in Marietta, GA. Who is effective the most when there is an eviction that is your minority community and it is children. Forty seven percent of the schools and there is a hundred and fourteen schools in Cobb County who qualified for Title 1 funding. Title 1 funding is based on household income. This means that the children receive free and reduced lunches at school. Cobb County recognizes there are issues going on in the County. Some practical solutions is coalition building, talking with non-profit and talking with the schools and coming together with a concrete plan to address these housing concerns. In addition, demand for more funding in Section eight vouchers. These are government assisted programs. Less than twenty percent (20%) of renters in Cobb County receive such assisted programs. The majority of the extreme low income earners do not receive any type of government assistance. Also, talk with community developers and when they are developing these multi-family housing about reinvesting into the community. It may not be the City of Austell right now but if you take stock of your housing because once they are evicted they will find another community to go to. It will become the City of Austell's problem as well. I will leave with this, in December I will be hosting a neighborhood summit on housing and transportation. Thank you.

Mayor Pro Tem Clemons asked if anyone else would like to speak to the Council. No one spoke.

- **GAS SYSTEM REPRESENTATIVE  
JOE JERKINS**

Mr. Kimbrough stated he attended the meeting. There is not much going on with the Gas System right now. There is plenty of gas available. The prices are very flat at this point and time. We are just gearing up for hopefully a cold winter. Mr. Rob Register did mention the progress being made on the L&G Plant and things are going well there.

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- **FINANCE REPORT**  
**OLLIE CLEMONS, CHAIRPERSON**  
**Denise Soesbee, Director**
- Financial Report
- **GENERAL ADMINISTRATION**  
**SANDRA LEVERETTE, CHAIRPERSON**  
**Sandy Farmer, Director**
- No Report
- **POLICE DEPARTMENT**  
**OLLIE CLEMONS, CHAIRPERSON**  
**Bob Starrett, Police Chief**
- Police Report
- **FIRE DEPARTMENT**  
**RANDY GREEN, CHAIRPERSON**  
**Pat Maxwell, Fire Chief**
- Fire Report
- **PUBLIC WORKS DEPARTMENT**  
**KIRSTEN ANDERSON, CHAIRPERSON**  
**Randy Bowens, Director**
- No Report
- **PARKS DEPARTMENT**  
**SCOTT THOMAS, CHAIRPERSON**

**Jim Graham, Director**

- No Report

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- **COMMUNITY DEVELOPMENT  
VALERIE ANDERSON, CHAIRPERSON  
Jim Graham, Director**

- Rezoning – 6210 Mary Street, LL 18, 19 & 20, Parcel 70 of the 18<sup>th</sup> District 2<sup>nd</sup> Section of Cobb County from Planned Unit Development (PUD) to Planned Unit Development with Site Plan change and stipulations.

Ms. Valerie Anderson stated the Department of Community Affairs has received a request from Venture Homes for a Site Plan change and added Stipulations to the existing Planned Unit Development Zoning at the property located at 6210 Mary Street, in LL 18, 19, & 20, parcel 70 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County.

The Planning and Zoning Board voted (4-3) in favor of the proposed Site Plan and added stipulations.

Ms. Anderson stated she would like to turn this over for a Public Hearing.

Mr. Scott Kimbrough stated at this time he would like to call for a Public Hearing in the matter of 6210 Mary Street, in LL 18, 19, & 20, parcel 70 of the 18<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County. From Planned Unit Development (PUD) to a Site Plan Change and Stipulations. Who is here to speak on behalf of the applicant? Mr. Shawn Randall stated his name. Mr. Kimbrough asked Mr. Randall if he was an Attorney. Mr. Randall stated no he wasn't. Mr. Kimbrough asked Mr. Randall to please come forward and we have four persons who have signed up in opposition. We have Brenda Reynolds, Michele Schuff, Tina Cobb and Brian Mills. All the persons present in opposition stood and were sworn in as well as Mr. Randall.

Mr. Randall stated his name and stated he was Vice President of Venture Homes and in charge of all land acquisitions and development activities for the company. I am proud to give you an update on Sweetwater Manor which is our only

community active which in turn as home sales. We are about sell out of that community and we are down about three or four homes. The great news is the average prices started in the high one eighties and low one nineties. We are now selling homes way over the two hundred thousand. Some two twenty and some two thirty in that neighborhood. We are very pleased about that and also if you have driven down Maxham Road lately next to the church on Maxham Road.

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It is a fifty-two lot development and this Council was gracious enough to give us approval on the zoning on it several months ago. After the development we should be putting pipe in the ground and I hope to being starting the houses before the end of the year at that community. Just to refresh everyone we are getting one eighty and one ninety and much smaller homes than these then we are about to present tonight. I would like to start off about talking about this site. The thirty acre site and part of it is on Westside Road and part of it on Mary Street as was mentioned. I would like to make the Council aware this is not a rezoning. This property was zoned (PUD) several years ago but to a different site plan. So, all we are doing and we are honoring everything and all the covenants and all we wish to change is the site plan. We just want to change a site plan which we think will make a significant enhancement to the property. Mr. Randall showed everyone the site plan on his map drawings. The original site plan had homeowners turning on Westside Road and down Goodwin and then Mary Street. We thought that doesn't make any sense for them to be going into a very old established residential neighborhood. Why not make the access here off Westside Road. The other thing that came to mind with us is the old site plan had two cul-de-sacs and two creek crossings and backing up houses down below. We didn't think that made any sense. We are leaving about three acres of developer land in its natural state. The other key point I would like to make about this is and some of the comments we heard from the neighbors at the Planning and Zoning meeting are what about the open space. You are going to jam sixty-eight houses on this piece of property. Fact of the matter is sixty eight percent of this property is open space. This will not be developed or touched. There is no creek crossings and we will leave the creek entirely alone. So again, about twenty acres of this thirty acre site will remain untouched. We think this is really key. All these trees and open spaces you see in this site plan truly is tress and open spaces. I must say, my thirty years in doing this business I don't know if I have ever had a community with that much open space. That includes golf courses I have done and you start there with one hundred and eighty acres or open space and still don't have that kind of percentage open space. There was some mention of what happens to the animals? We will be leaving twenty acres undisturbed for the animals. We think this is very

important and again the (PUD) the ten foot buffer requirement on the north side of this property where we do back up to houses we will honor that buffer requirement. There is probably one hundred and thirty feet to the closest house on the north side. The south side is over three hundred to three hundred and fifty feet to the closest house. We are proud of this product and this product we are currently building right now in Cobb County and I would encourage the City Officials to go and look at Floyd Point.

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It is on Floyd Road right behind the Walmart. I would encourage everyone to look at the product and the product size ranges over eighteen hundred square feet to over twenty-five hundred square feet. You can't tell necessarily which one of the houses are the biggest from the front of the home. The twenty-five hundred square feet homes could be four bedrooms with three and a half baths. They all have two car garages and we are very proud of this product and we are proud of the streetscape. I would encourage some of you to look at the streetscape and obviously some of these homes are under construction but this is a typically backyard which is landscaped. Mr. Randall showed another picture drawing of his product and this product in this location is in the one nineties and we are closing out this sub-division and it is up in the high two forties. At this Westside project it will be priced at the one nineties up to the two forties. If you look at the surrounding neighborhood and you factor out Sweetwater Manor and discount those houses we are probably sixty percent higher. The average price is two twenty-five and we are probably higher than the surrounding area. I couldn't find anything off Humphries Hill in that corridor. Going west of Thornton Road a couple of miles it looked like a large acreage house that sold in the three hundred thousand range. We feel like this product will be very complimentary to your surrounding community. I would like to talk a little bit about some of the requirements that we are placing over and above your normal (PUD) requirements. Again, we have to have least eighteen hundred square feet of heated space. A twenty-five foot driveway is the minimum and a two car garage. We will write into the covenants that the garage cannot be converted into living space. We will encourage our homeowners to park their vehicles in the garage. We actually write that into our covenants now. We shall not allow more than ten percent (10%) rentals. I know that was a big concern with the City the last time. We will write into the covenants there will not be more than ten percent (10%) rentals. We were proposing brick or stone entry monument and five foot sidewalk out front. The neighborhood will have sidewalks on one side. At the City standard typically opposite the waterline so there will be plenty of places to walk. It will have street lights and all utilities will be underground. The other thing that came up rather

extensively was issues regarding storm water, water management and flooding. As the staff knows we have to do a pre development study of this property. In other words we take all thirty acres and see which way the water is flowing and which direction and how many cubic feet per second in the engineer terms and where is it is going. Our post development at any given time whether it be a one year storm, five year storm, ten year storm, twenty-five year storm, fifty year storm, or a hundred year storm those run off numbers will not exceed the pre-development condition.

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So we will, and in most cases Cobb County as us to lessen the pre-development condition if they see a situation downstream and it may need attention. We will have to do a complete hydrology study as part of the plan in due process. My suspicion is this detention pond will get much bigger and will get sized to make sure we are not a source or cause of any additional downstream problems. Again, I would like to say we respectfully ask the Council approve this tonight. If Council has any questions I would be glad to answer any questions.

Ms. Kirsten Anderson stated she had a question. Mr. Randall you stated the detention pond would be getting larger and it looks like there is a home right next to the pond. Would you please explain this to us? Mr. Randall stated there is governing rules about how much in the street buffering you can put a detention pond. If it is earthen you can put it in the fifty foot buffer. If this pond gets bigger we will simply have to lose two houses or three houses or five houses depending on what the size of the pond needs to be. This is very typical in this community here it was originally zoned for thirty-seven houses and ended up with thirty-two homes because the pond might get bigger and bigger. We are prepared to do that and again satisfy the Engineers. We have to satisfy City Staff and we have crunched our numbers and done our homework. Ms. Kirsten Anderson stated another question I have you said this is a rezoning. Mr. Randall stated no, it is not a rezoning it is a site plan change. Ms. Anderson asked what the number of homes were originally. Mr. Randall stated I believe the original zoning had sixty houses. Ms. Anderson stated so, we want to add twenty-seven houses approximately. Mr. Randall stated it was sixty-eight houses. Ms. Anderson so, you are adding eight houses. Mr. Randall stated I really don't know the number off the top of my head. Ms. Anderson stated not as many as I thought. Ms. Anderson stated she had one more question. I was looking at your map there and talking about the parking and I do know we have a problem with Village on the Park with parking on the street. You are saying in your covenants there will be only ten percent (10%) rentals. How long will you be involved in ten years with this subdivision? Mr. Randall

stated we setup a mandatory Homeowners Association that is responsible for maintaining the entrance and they will be responsible for the detention pond the mail kiosk area and all other common areas. This is one of the important things about this driveway length at twenty-five feet. You can park an F1-50, Suburban and really anything you want. Between the garage and we are mandating it stay as a garage and they cannot convert it into living space. They should have four parking spaces off street per every unit. We feel there is plenty of parking in the community. Ms. Anderson stated she had another question mostly for you Jim Graham.

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Ms. Anderson stated these turn arounds and if we have residents or whoever park there. I thought a few years back we were not going to do anymore turn arounds. Will there be enough room for emergency vehicles. Mr. Graham stated yes, there will be enough room. Mr. Randall stated we have to meet all the Cobb County standards which is a ninety-one foot radius. The fire trucks would have to be able to turn around. Mr. Randy Green asked what the lot size is. Mr. Randall stated, he was sorry that he should know this off the top of his head. The lot size average is about sixty-six hundred square feet. The zoning calls for a minimum of four thousand square feet. These lots are at a minimum at the building line of thirty eight feet. These lots here are actually thirty six feet minimum. We purposely made the City's lots bigger because if we were having trouble it didn't give us enough flexibility if we needed to slide a house if we needed to. These lots are actually bigger than what's being built on in Cobb County right now. Mr. Green asked Mr. Randall when you say thirty eight are you talking about buildable. Mr. Randall stated no, thirty eight feet wide total. The house is twenty six feet. Mr. Green stated so not even fifty foot wide. Mr. Randall said no sir. Mr. Green asked what is the average bedroom or how many? Mr. Randall stated no house will be smaller than three bedrooms and two and one half baths. Mr. Green asked why they can't be four and five bedrooms. Mr. Randall stated whatever the market demands. We will build obviously the bigger house but that came very much in vogue and people didn't want the bigger house but not everyone wants a bigger house or can afford a bigger house. These houses again I would say, range from eighteen (1800) hundred to twenty-five (2500) hundred square feet. Four bedrooms and three and half bath is twenty-five hundred square feet. Eight out of the thirty two were the bigger house. Mr. Green asked most of those were three bedrooms? Mr. Randall stated, yes, sir. Mr. Green asked Mr. Randall if he had done any studies as to how it would impact the streets as far as traffic. Mr. Randall stated, no, we have not done that. Mr. Randall stated he didn't know what Westside was as far as handling thousands and thousands of cars every day. Every

time I do a traffic study I am always amazed at how low the impact is of a residential community. Ms. Valerie Anderson asked Mr. Randall if he could cut the number of houses. Mr. Randall stated we probably will have to cut it back and we are open to listen to Council's ideas. If there is a number you are more comfortable with a good number and a good use for this property. Mr. Green stated the biggest thing with me is you have that small lot with four bedrooms and usually a family of that size has children. You really don't have a yard for a child to play in. I am not criticizing you because I know what it takes to build a home because I have been in construction for a long time. That direction I really don't like to go in.

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Mr. Randall stated I dare say when I was a kid there was a vacant lot next to my house and we played on it. The twenty five foot driveway and I don't know what the front setback is but it beats a single family standard home. You will have a minimum of thirty or forty feet on the back of these lots. Mr. Kirsten Anderson asked is there any planned play area or recreation center. Mr. Randall stated, no we do not have anything setup yet. Ms. Sandra Leverette asked would it have a pool or tennis court. Mr. Randall stated, no. Mr. Randall stated the rule of thumb is unless you have and one hundred units you can never make the pool make sense. Because what happens is it becomes too big of a burden to the existing homeowners and then they don't maintain it. Mr. Scott Thomas asked Mr. Randall if he would set aside anything for a recreational area. Mr. Randall stated, again, I would be glad to do that. I think we have plenty of spaces to do that. Ms. Leverette asked Mr. Randall to hold up the picture drawing again to show her. Ms. Leverette stated in 2009 it flooded and if you take away thirty acres I am really concerned about building those homes in this area. Mr. Randall stated twenty of these acres will never be touched. We will not get on these twenty acres. This green space we will not have to get a tractor on it and this is why I think this site plan is an improvement. The other site plan had a cul-de-sac coming down and houses being built. This is all buildable land on the other side of the creek. It is all developable land and we are not touching it because we don't want to cross the creek. We do not want to do the environmental impact of crossing the creek. We would have to put culverts in and fifty foot right a ways and etc. The old site plan had a cul-de-sac coming down here on the map and lots being built on the way down. We feel like this is a significant improvement from the prior site plan and we also feel like leaving twenty acres alone and everything behind this line can't be developed anyway. This line has changed and I think the field lines has been redrawn since it was zoned. So, this line has changed pretty dramatically and so we are honoring that. I think with the engineering we are doing with that and we

have to do this because it's the law. We will not increase any peak flow in any storm matter of fact we should improve it in terms of the flow. Whenever you put an impervious surface such as a roof or concrete driveway or a street, you do generate more run off. But, that run off is all going into the detention pond and slowly released after the storm. All of our runoff goes to the detention pond and slowly released. So, again we should enhance the storm drainage and by not touching twenty acres of the land. We feel like we are being environmentally sensitive as we can. Mayor Pro Tem asked you say this is a site plan change so help me again to understand the changes. What are you proposing to change from the old site plan to the new site plan?

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Mr. Randall stated the old site plan had an entrance off Mary Street into the property. So you came down Westside and turn on Goodwin. This was actually a cul-de-sac back here and it had houses back up here and this is the biggest site plan change. We feel like for traffic flow to get people in and out of this neighborhood this would be the best way. Mr. Green asked when you changed this did you take away from each house or the lots? Mr. Randall stated, yes the lot sizes have shrunk some. Ms. Sandra Leverette asked Mr. Randall if the homes would be in the cul-de-sac. Mr. Randall stated, yes, they would one way in and one way out. Ms. Leverette stated so they would go out on Westside? Mr. Randall stated, yes, they would. Ms. Leverette stated if you come out of Westside you would have to make a right and then make a left hand turn and make U-turn to come back up. There is a divider there and you can't make a U-turn anymore. Mr. Randall stated he was sorry, but he was missing a turn coming out of where? Ms. Leverette stated coming out of Westside. Ms. Leverette stated you cannot make a left you have to make a right. Mr. Graham stated you can make a left and go down Garrett Road and then go out. Mr. Graham stated I don't know which way you are going but make a left and go to Garrett Road which will take you up to C.H. James Parkway then you can make a left or a right hand turn. Ms. Leverette stated not going that way but coming back the other way. Ms. Leverette stated when you come out of the subdivision you will have to make a right. Mr. Randall stated when you come out of the subdivision you can turn left to go to Garrett or turn right to go to Humphries Hill Road. When you get to Humphries Hill you have to turn right. There is a barricade there and you are not supposed to make a left hand turn because I think the traffic is too close to C.H. James. We are prepared to honor that and we also talked at the last Planning Meeting about putting a d-cell lane and we don't have enough room on our property to put one in the subdivision. We certainly have enough room to put in an a-cell lane coming out of

the subdivision if you are turning right. We thought that would be a good place and I have no idea as to what Cobb County Schools will do but that might be a good place for the school bus to pull off. We are willing to add that if staff agrees with this. That would free up congestion on Westside. Mr. Kimbrough asked Mr. Randall exactly what are the changes you are proposing from the original site plan and what was originally approved.

Mr. Randall stated the site plan change would be we are not using Mary Street and I think the original did have two cul-de-sacs on it. Mr. Kimbrough asked Mr. Randall, so you are changing the entrance point from Mary Street to Westside. You are also changing the configuration of the subdivision on that property to preserve the creeks, and changing sixty (60) houses to sixty-eight (68) houses.

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Mr. Randall stated, yes this is what we are requesting. Mr. Green stated also to smaller lots. Mr. Randall stated, yes. Mr. Kimbrough stated you have already been approved for the original zoning. Mr. Randall stated yes, we could go build those sixty (60) houses tomorrow. Mr. Graham stated he had the original site plan which was approved in 2003. When they came to us with this we liked their plan of coming off of Westside better than Mary Street. Mr. Graham stated the only thing they have added is six or eight homes. We didn't ask them to do a playground or anything because of the tree buffer zone. The swim and tennis would have to go in the twenty acres. We didn't want that and we wanted as much green space as possible. This is what we came up with in the negotiations with them. Mr. Graham also stated more than likely they will lose four or five houses. Mr. Randall stated we always zone a little bit more than we ever get. Mr. Kimbrough stated even under the old site plan with Mary Street on it traffic will still have to come to Westside Road. Mr. Randall stated we didn't want to impact the homeowners on Goodwin and Mary Street. Westside Road looks like the major North and South in that area. Mr. Graham stated this has already been approved on zoning and it is just a site change. Mr. Kimbrough asked if there is any more questions for Mr. Randall. Mr. Kimbrough stated we have four persons signed up in opposition. We will give you about five minutes to speak.

Ms. Brenda Reynolds stated her name and stated she had lived in this area about thirty-eight years. I have raised two of my boys here and when we first moved here it was an excellent area to raise children. There was seclusion, there was safety and there was a lot. The City has put in two new subdivisions right up the street from us and since 2003 when that plan was approved they have added two new subdivisions plus all the houses on Westside Road. My whole point of this is

Westside Road is not equipped for two cars per household even for sixty houses and that is a hundred and twenty more cars. If the tractor-trailers tip over on Garrett everyone has to come up Westside and go out the other end. Is he going to keep Sweetwater Creek from flooding? When Sweetwater Creek floods, all of us have to go to the other end to get out. School Buses, I don't care if there is a d-cell lane or whatever lane you can't pass a school bus while they are loading those children. You will be taking away from us to be able to go to work. Ms. Leverette even said her house flooded. You can tell whatever about doing all this and all their studies and this and this and it will be keep her house from flooding. That is simply not true. The floods are going to come and this is a flood area whether they admit it or not. You would not even pick up the trash that was thrown out across the creek until Venture Homes decided they wanted to build a subdivision. Now that trash is picked up. We called and called and you would not pick it up.

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We went down a group of us and picked up trash and cleaned the creek down there. Because we have to live there. So we went down and cleaned up the creek. The City of Austell didn't. Potbelly pigs were thrown out and they were going crazy down there. We captured the pigs and we were told there was nothing the City could do. Humane Society couldn't do anything Animal Control couldn't do anything. We picked up the pot belly pigs and found them homes. There was a mother and eight babies thrown out. Those babies are going to grow up and they were going to breed and more pigs and more pigs. I guaranteed one thing with Venture Homes coming in and if somebody throws out a pot belly pig I bet they will get picked up. You need to think about all the residents that are here now. I am ready to sell my house and get out of Cobb County. I don't want to be here. You put the rail yard over there and said it wasn't going to impact anyone and it impacts us every day. The City put it over there and didn't think about the residents. You are thinking about the revenue and the revenue for the City of Austell and the revenue for the County and that is fantastic but you better start thinking about your residents. You are going to lose residents. Just recently I had an Austell Police Officer tell me they only had two (2) officers to work the roads. And, here we are putting in sixty-eight (68) more houses. God forbid if crime goes up. Hopefully, they are better staffed now. My husband is a retired Sheriff's Deputy and I have the upmost respect for law officers. But, two officers cannot take care of this City and certainly can't take care of sixty-eight (68) more houses. I think they should go back to the original plan and go back and revisit that plan. Because when you approved that plan you didn't have the two subdivisions. Mr. Graham stated the plan has already been approved. Ms. Reynolds stated well, you should not have built those other subdivisions and those houses. You are throwing

houses in and not thinking about the people that are already living there. You are impacting us. I leave for work now and if there is a tractor trailer turned over it takes me thirty more minutes to get to work. Because you can't go left at that end of Westside Road or you can make an illegal U-turn. Then you hope the Police is not sitting there watching you or you don't have an accident. So you go right and then you make a U-turn. This makes a lot of sense. I don't even know why they did that. I was told the State did it. Someone shouldn't argued with the State. We should be able to go right or left coming out of our little area. If you keep going you will lose your longtime residents. People who have been here for years who have supported Austell and Cobb County. My husband was a Sheriff's Deputy for eighteen years and we supported Cobb County but I no longer want to be here. I have a cabin in Alabama and I am ready to move to my cabin in Alabama. I can see now the only thing Austell is looking at is the revenue which is going to benefit them. Cobb County doesn't care about the City of Austell.

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All they care about is the revenue that will benefit them. He can sit here all day long and tell me that sixty cars or a hundred and twenty cars will not impact Westside. Do any of you know where Westside is and have you been on it? Tell me that one hundred and twenty cars will not impact Westside Road. Mr. Kimbrough asked anyone had any questions for Ms. Reynolds? No one did.

Ms. Tina Cobb stated her name and stated Westside Road doesn't even have a line in the middle of the road. There are houses there and the kids play in the driveways and right there in the road. We would have to have speed bumps for the children and you are talking about adding about a hundred and thirty cars at least. The lots are so small you could put five of those lots on my half acre. There is no yard for the kids or no park or playground for them and the teenagers will be roaming the streets with nothing to do and it will make the crime rate go up. Everyone I spoke with and we did implement a petition and most of the people I spoke with stated they bought the house in the area because it looked nice and quiet and felt safe to them. The kids could play outside and they didn't have to worry about them or other people. This is the whole reason we have moved here. I have lived here for twenty seven years. I am not at all opposing to building. I am o.k. with building but I just think the lots need to be bigger. The houses need to be at least two hundred fifty and nicer houses and bigger lots. This is just what I think. Mr. Kimbrough asked if anyone had any questions of Ms. Cobb. No one did.

Ms. Michele Schuff stated her name and stated she lives on Goodwin Road for

about fifteen years. I have spoken to my neighbors in the surrounding communities and all of the neighborhoods off of Westside Drive. We have a petition of fifty-seven (57) signatures and each one of you have a copy of these. Everyone I have spoken to was adamantly opposed and no matter how you slice it will negatively impact people who live in these communities. It's great that you will not come out on Mary Road but there are people who live right off of Westside Drive. They are elderly people there is toddlers and children and you are going to add a hundred and thirty vehicles to that road, it's crazy. Not to mention, I am a big fan of the trees and the woods there on the thirty-eight acres and there is countless deer there. It looks like they have backed away from the flood plain and shoved the homes right up to our property line. The loss of the green space and the loss of the wildlife and the enormous increase in traffic. I am speaking for all of my neighbors.

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By the way, all of the homes in these neighborhoods and we counted seventy something homes and we talked to almost sixty people and you will find some did not sign the petition because they were either not home or the house was vacant. So, everyone I have spoken to is adamantly opposed to this development and will be directly impacted by this development if it goes in as planned. Mr. Kimbrough asked what if it goes in as originally planned. Ms. Schuff stated well, that is also what we are opposed too and it would be great if everything could stay the same. It doesn't sound like that is an option but if the number of homes could be drastically reduced even by half. These lot sizes have nothing to do with the surrounding neighborhoods there is no correlation between our lot sizes and the proposed footage of the other homes. It has nothing to do with the surrounding neighborhood. We are just asking if you would consider a different kind of development if you do have to build there. Also, as Tina was saying other people are talking about places for the kids to play. The only place to go is on Westside Drive. Mr. Kimbrough asked if there are any questions for Ms. Schuff. No one had any questions.

Mr. Brian Mills stated his name and stated he lives on Goodwin Road. Mr. Mills presented picture drawings of his backyard. There are sixteen homes going up and they are about twenty-five feet away from my backyard fence. At the last zoning meeting I heard how nice these homes were going to be. The (PUD) looks nice if you are on the street where they are built. If you turn around and look at the back this is what you see not pretty. There is a ten (10) foot buffer from my fence and

what do you plant with a ten foot buffer. What kind of landscape are you going to put in when you have ten feet to work with and maintain and not be on my property? If you look at this image and I don't know if you can tell but this is a branch and this is where the water flows when it rains. It is an active water flow. I don't know if it is an imminent stream or not but it might be. You will be going directly uphill and they are talking about where to put the road which will be fifteen or twenty feet higher. The eighteen homes which are right up against me and send the water over to the detention pond. Just look at the topography this is the eye area and are they going to jump the hill and keep all of this water from running down into the branch right behind my house I don't think so. The maximum height on these homes which is thirty five feet. This is from their street if you go thirty five feet. If you go back in my yard I am twenty feet lower that is fifty-five feet. Also, how far apart are these homes? They are ten feet apart from me to you. They are building a fifty-five to sixty foot wall in my backyard. In our backyard. I don't think that is reasonable. I think what makes a City works is everyone respects each other.

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Respects the rules and respects their property and the neighbor's property. This plan does not do that at all. The way you exit on Westside Drive and everyone is talking about the traffic. Mr. Mills asked how long the zoning would last that was done in 2003. That was ten years ago and there have been two developments since then. Is it fifty (50) years from now that you can come and build it. It was approved fourteen years ago and so you can do whatever. Mr. Green stated you said thirty-eight (38) feet wide and don't we have a setback of ten (10) feet wide. Mr. Mills stated it is five (5) feet from the property line to the other property line. Mr. Kimbrough stated it was his understanding that all the distances on the site plan were within the City's (PUD) standards. Mr. Green stated in that case you could only build an eighteen foot house period. Mr. Mills stated go look at the (PUD's) in the other cities and look at your wards and your ward map and see if you can find one this dense. Also, abuts an R-20 zone property. Most of these PUD'S you have approved are away from R-20. Look at the maps this is how it is. Even the materials on the backs of these homes are they going to be vinyl or hardy board or what. You will throw a patio back there and all the vents coming on the roofs and we will be looking at eighteen of them. Mr. Randall stated no not necessarily. Mr. Kimbrough stated to Mr. Randall and Mr. Mills we will not have a back and forth argument. Mr. Randall you will have your time to speak. Mr. Kimbrough stated I would like to keep to the site plan changes because again they can go build right now. This was approved in 2003. No, they are applying to change certain things that were approved back in 2003. The number of homes, the

layout of the homes on that property. The size of the homes, and the entry point. This is what the hearing is about whether or not the Council will allow them to change those things. I understand your problem with the development as a whole but this is not what we are here for. Mr. Mills stated there are two developments that have gone in since then and built on the consisting condition of the area. Mr. Kimbrough stated we cannot go back and change the approval of what happened in 2003. I appreciate your concern in voicing your opinion but I want to make sure we are doing apples and apples here and not apples and oranges. Also, that everyone knows why we are here today. Mr. Mills asked Mr. Randall how much open space are you leaving and I imagine most of that is flood plain which you can't build on anyway. I really don't know how much credit you get for that because you could build on it if you wanted too. You also said the FEMA map has changed and it probably will change again because there will be more water to run on my property at least. The water cannot go uphill or be pumped. The watershed and the PUD's require this because of zoning, I don't know. The buffer, it is a landscape buffer that has to be maintained or just a space or rocks. Mr. Randall stated it's a buffer.

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Mr. Kimbrough stated it is an undisturbed buffer. That is not only City but also State law as well that everyone has to comply with. The PUD residential flooding and this buffer is at the bottom of the branch and the houses are straight uphill. A longer setback and it will not buffer us. This is enough for me. Mr. Kimbrough asked if anyone had any questions of Mr. Mills. No one did. Mr. Kimbrough stated to Mr. Randall that he could he could speak and please make it short.

Mr. Randall stated all of these houses will be constructed with hardy plank siding. Hardy plank is like Xerox it is a brand name and a fifty year product. Never rots and matter of fact there is no wood on any of these houses. Even the columns out front are PVC plastic and they don't rot and very well maintained. We think sometimes the back is flat but sometimes it is not. We feel like the rear of the house is very attractive. It has a reverse cable on the rear and that is your fireplace there so it is not just a flat rear on every unit. Some are flat but some are different. Some have these dormers out the back side. Yes, when you have vents they go on the backside of the house. No different than the other builders who build in Atlanta that uses that type of venting system for their house. We are very proud of our houses and we feel this will be a good addition to the community. Mr. Kimbrough stated no more questions of Mr. Randall. Mr. Scott Thomas stated he did have a question of Mr. Kimbrough. Mr. Thomas asked Mr. Kimbrough we are voting tonight on the changes of this development. Mr. Kimbrough stated, yes,

that is correct. Mr. Thomas stated we cannot stop this development because it was approved in 2003. Mr. Kimbrough stated that is correct Mr. Thomas. Mr. Thomas stated the only thing we can vote on is let them build the homes like it was approved in 2003 and approve or disapprove these changes which sounds like they are better than the originals. Mr. Kimbrough stated that is up to the Council to decide, but that is correct. Mr. Thomas reiterated we cannot stop the development that was approved in 2003 that was agreed between the City and this Company. They can build the houses like they initially wanted in 2003 but to me it looks more favorable than the changes they are making. We can get a better understanding from Mr. Graham before we vote. Mr. Graham stated when we met with Mr. Randall and reviewed those site plans and we had a different thought than what was approved in 2003. The reason because we did not want that much traffic going on Goodwin and definitely not Mary Street. When the plan was presented to exit off Westside we thought that would be the best thing for everyone concerned due to the original site plan. There were concessions made and we didn't want playgrounds, swimming pools because we wanted to leave as much greenspace as possible. This was the whole gest of this and now if this is turned down tonight I don't have a thing to say about it.

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Mr. Graham stated if someone comes in and develops this we will not be here because it will be already approved and you will have a voice in this. Mr. Thomas stated so, there is no way we can stop this. Mr. Graham stated, no it was voted in and you cannot change it. Mr. Thomas stated, so tonight the only thing we can vote on is the site changes and as you can see what we are up against. Ms. Valerie Anderson stated, so if another developer comes in and decides to do the 2003 plan there will be no Public Hearing. Mr. Graham stated, that is correct.

Mr. Kimbrough stated we need a motion to close the Public Hearing.

*Ms. Sandra Leverette moved to follow the recommendation to close the Public Hearing. Seconded by Ms. Valerie Anderson. Motion passed (5-0).*

*Ms. Valerie Anderson moved to follow the recommendation to deny the Rezoning – 6210 Mary Street, LL 18, 19 & 20, Parcel 70 of the 18<sup>th</sup> District 2<sup>nd</sup> Section of Cobb County from Planned Unit Development (PUD) to Planned Unit Development with Site Plan Changes and stipulations. Seconded by Ms. Sandra Leverette. Motion passed (5-0).*

Ms. Kirsten Anderson stated with that being said there are a few things, I don't

like the addition of more houses. I just plain don't like that for sixty to be approved. I will say I was not on Council in 2003 so I had nothing to do with this originally. I am sure Mr. Graham has looked over this and I do not like one way in and one way out for that many residents. I don't like that there isn't any kind of recreation and I do understand you have bigger barriers and that's great but now we have more marsh land and I am sorry but you don't know what it creates and what is going on there. It will create a homelessness problem and it is very easy to hide in those places. For me, I just don't like it.

Ms. Sandra Leverette stated she didn't like it either. I am concerned for the citizens and it is a well-established neighborhood and I have been down this street and I know some of the homeowners who live on this street. So, for me I oppose this.

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- Amendment to the City of Austell Comprehensive Zoning Ordinance for Auto Brokers and distance requirements for Automotive Paint/Repair/Garage business types.

Ms. Valerie Anderson stated it is the recommendation of the Community Affairs Department to amend the City of Austell Comprehensive Zoning Ordinance to limit Auto Brokers to the Heavy Industrial (HI), and Light Industrial (LI) zonings according to the Official Zoning Map of Austell.

It is the recommendation of the Community Affairs Department to amend the City of Austell Comprehensive Zoning Ordinance for Automotive Paint/Repair/Garage business types to have a minimum distance of 1,800 feet from other like businesses.

The Planning and Zoning Board voted (6-0) in favor to amend the Austell Comprehensive Zoning Ordinance to limit the zoning for Auto Brokers to only Heavy Industrial (HI), and Light Industrial (LI) and for Automotive Paint/Repair/Garage business types to have a minimum distance of 1,800 feet from other like businesses.

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

Mr. Kimbrough stated he would like to open the Public Hearing. This is the recommendation of the Community Affairs Department to amend the City of Austell Comprehensive Zoning Ordinance to limit Auto Brokers to the Heavy Industrial (HI), and Light Industrial (LI) zonings according to the Official Zoning Map of Austell. To require a minimum distance of 1,800 feet from other like businesses for Automotive Paint/Repair/Garage business types. Did anyone sign up for opposition? No one did. Having heard the presentation and no opposition we need a motion to close the Public Hearing.

*Ms. Valerie Anderson moved to follow the recommendation to close the Public Hearing. Seconded by Mr. Thomas. Motion passed (5-0).*

*Ms. Valerie Anderson moved to follow the recommendation to approve the Zoning Amendment for Auto Brokers/Repair Shop Distance requirement. Seconded by Ms. Sandra Leverette. Motion passed (5-0).*

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- **ATTORNEY, DUPREE & KIMBROUGH**

- No Report

- **MAYOR'S REPORT**

A. CMA MEETING

October 10, 2017

TIME:

6:30 P.M.

LOCATION:

FORD CENTER – POWDER SPRINGS

- **ADJOURN**

*Mr. Thomas moved to follow the recommendation to adjourn the meeting. Seconded by Ms. Leverette. Motion passed (5-0).*