

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 6, 2012**

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

The regular meeting of the Mayor and City Council was held on Monday, August 6, 2012 at 7:00 P.M. at City Hall.

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

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Reverend Michael Martin gave the Invocation and Mayor Jerkins led the Pledge of Allegiance. Mayor Jerkins asked the Council if anyone had any items to add to the Agenda. No one did.

Mayor Jerkins presented a Plaque to Curtis McClendon for thirty-five (35) years of service to the City of Austell. Mayor Jerkins thanked Mr. McClendon for his hard work and his dedication to the City of Austell. Mayor Jerkins stated you really don't know how to appreciate someone like Curtis and Mike. When a water line breaks and you will always find Curtis and Mike in a hole when it is twenty degrees and it is freezing weather trying to repair the line. They both are on call during the week and they rotate on the weekends. I have been out a lot of nights and they have both stayed all night to get the line repaired. This makes me appreciate you more and more because of your dedication and hard work. I know when working your hands are freezing and your feet very wet and struggling and you have worked so hard for the City and I really appreciate all you have done for the City of Austell. Ms. Anderson presented Mr. McClendon with a thirty-five (35) year service pen and thanked him for his service and hard work and always being polite to the citizens and being there when we need you.

Mayor Jerkins presented a Plaque to Michael Hays for thirty (30) years of service to the City of Austell. Mayor Jerkins stated Mike has been with us thirty years which is a long time to put up with us.

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He has been in the ditches at night fixing water lines and both he and Curtis have worked hard together and I don't anyone who has worked any harder than these two.

No matter what we need they get it done for the citizens of Austell and I am so proud you work for the City of Austell. I can't say enough good things about you. I remember when your twin daughters were born twenty years ago and I have been with the city a while myself. Anyway, they both have worked so hard for the City and I know this plaque is not much and we also have a little pin we would like to give you. Ms. Anderson presented Mr. Hays with a diamond pin and thanked him for running a great department and always being there.

Mayor Jerkins presented Randy Henson with a ten (10) year Plaque and Pin and thanked him for his service and thanked him for a job well done with the Police Department. He is always there when we need him and has been a lot of help to Chief Starrett. It's hard for me to say enough good things for all they have done for us but they are great employees and we just appreciate you so much for what you do.

2. CONSENT AGENDA – INFORMATION AND UPDATE

3. CONSENT AGENDA

- A. Approve Bills
- B. Approve Legal Bills \$660.00
- C. Approve Minutes of Regular Council Meeting July 2, 2012

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

4. EXCEPTION TO CONSENT AGENDA

5. CITIZENS REPORT

Mayor Jerkins asked if anyone would like to speak to the Mayor and Council. Mr. Tony Cain stated he would like to speak. Mr. Cain stated he lives in Austell. I read the minutes of the last meeting the June meeting on line and I haven't been able to get the July minutes. I wish we could get a draft three or four days afterward and then we could review them. In the June minutes, Code Enforcement issues are coming up. One of the things I saw in the Marietta Daily Journal was tarps on houses and anywhere else on properties. I read this in the MDJ and this is the only way I knew about it. Are we talking about putting people in jail for six months in violation of this Ordinance? Mayor Jerkins stated if you stay in violation I guess that would be considered and it might be up to six months if you received a letter and warnings. They usually give you ten (10) days and then a citation and of course then you would go before the Judge because we do not make that decision.

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Mr. Cain stated but you would be able to put someone in jail for six months. Mayor Jerkins stated, no, we are not but the Court would be. The Court could do it but not the Council. Mr. Cain stated for example it could be three days in jail maximum for the penalty. Mayor Jerkins stated he didn't know what we had in the Ordinance so, if the Judge wanted to give you six (6) months he could. Mr. Kimbrough, City Attorney; stated usually the maximum punishment for incarceration for the Ordinance violation would be six months. It would be a misdemeanor offense and a lot of them are not six months and that would be at the discretion of the Judge for the punishment and that is not only for the City of Austell but for all municipalities and counties. Mr. Cain asked if the City of Austell couldn't ask if they didn't want six months in jail and you could make for less than that. Mayor Jerkins stated it doesn't mean you will get six months but the Judge could give you six months. Mr. Cain stated my point is it just seems like it is extremely a severe penalty. Governor Deal wants less people to go to jail for crimes that are not violent. If someone steals money from my checking account which just happened to me and my checking account was emptied. I can understand that and if someone hurts a child, beats their wife or murders a dog because I don't have any problem with jail time but I am asking you folks to reconsider six months jail time because they have a tarp on their roof. I am bringing this up because at a previous Council meeting Ms. Thomason, and you were not a Council member at the time and it was last year. Council member Trudie Causey, didn't you bring up giving the Austell Supermarket forty thousand dollars for a refrigeration unit. I thought I read that in the minutes. Ms. Causey stated no, she didn't recall anything like that. Mayor Jerkins stated actually, we sold some stuff and I think the amount was thirty (30) something thousand or maybe forty (40) thousand because we had some stuff in there that we sold. They put their own refrigeration in there and we left a little bit of walk in coolers but we didn't spend forty thousand dollars. Mr. Cain asked isn't there some grant money for the streets of Austell like sidewalk projects and things that are done downtown. Aren't there grants available for Federal and State government projects? Mayor Jerkins stated in some cases, yes. Mr. Cain asked and it could be hundreds of thousands of dollars, right? Mayor Jerkins stated, yes in some cases it could be. Mayor Jerkins stated, we have spent two million and something and we pay like twenty percent of that. Mr. Graham explained it was two point something million and most of it is an eighty twenty match which is an eighty percent grant and the City pays twenty percent. Mr. Cain stated, so, eighty percent of that money did not come from Austell it came from Federal. Mayor Jerkins stated, yes, it did. Mr. Cain stated so, this is what I am asking if you are going to do something like that for example Main Street as it is called and like Douglasville has this if a business puts in three thousand dollars into the façade of his building the taxpayers through this Main Street grant would give up to three thousand dollars. So, you put in three thousand dollars to improve the appearance of your store and the taxpayers pay for another three thousand.

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Mayor Jerkins stated he was not familiar with where the other three thousand would come from. Mr. Cain stated it is a Federal Grant and comes from taxpayers. Also, up to a two hundred and fifty thousand dollar loan at 2.4 percent interest and this is in Douglasville and they are trying to do an opportunity in Douglas County right now on Thornton Road which is one of the most prosperous business districts in the county and in this area. They are trying to get these same benefits for Thornton Road. My point is, instead of putting someone in jail for six months and fining them a thousand dollars about helping property owners and homeowners who are going through some difficulty right now. A lot of people have lost their jobs or they have had huge pay cuts and it's not like it used to be. I brought these papers from the Marietta Daily Journal and it is dated March 16, 2012 there is sixty-one pages of foreclosures. This is every week by the way. I have another set of papers dated July 20, 2012 and there are seventy-one pages of foreclosures. I am just saying that people are having a very terrible time right time. I am just asking to please don't put someone in jail for six months or enabling a Judge or Code Enforcement to do this. Here is the Douglas County Sentinel and this is July 21, 2012 and a Minister was following his son in his car and the son was pulled over by a Douglasville Police Officer because of a tag violation. He wasn't speeding or anything it was his tag. His father the minister was behind him with his wife and his grandchildren. The father got out of car to help his son and talk with the Police Officer. The Officer didn't know what was going on and he told the father to halt and he didn't do it so the officer tazed both men. The Judge in Douglasville sentenced the Minister, who is a grandfather to ten days in jail and it is in this article right here. He has a fine of four hundred and fifty dollars and the son was fined seven hundred dollars for the tag violation and they both get six months probation. This is over something ridiculous that happened on the side of the road. The Officer stated he felt that his life was in danger and he didn't know what was going on. The Judge stated you did not obey the Officer and the Judge gave him ten days in jail. You folks, if you pass this ordinance and I would hope you look at other Code Enforcement Ordinances why should it be six months in jail? This Officer thought his life was in danger and the minister received ten days in jail so why six months in jail for a Code violation. Mayor Jerkins stated let's say if you had a tarp on your car and Code Enforcement goes out and tells you that you have ten days to get that tarp off the car and you don't get it off. Then at that time we will issue a citation and don't you think this is your responsibility to take the tarp off the car. Mr. Cain stated he understood what the Mayor was saying but there are people who can't afford to have their roofs fixed who have thousands of dollars to fix their roofs. This is what I was saying about the grants before. If we could give these grants to businesses, Cities and Counties that are State grants and Federal grants why not get money to help people repair their homes. This is what is needed instead of putting them in jail. If someone goes to jail for a few months their life is ruined. They will lose their job and whatever is going on with their children.

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Mayor Jerkins stated they are not likely to go to jail. I have been here twenty-three years and we had one man that wouldn't clean his yard up and this is the only case I know of that happened like this. We issued warnings one after another for about a year and a half and his yard looked like a garbage dump with everything piled in it and wouldn't do anything about it. So, finally after he had been to court a couple of times he came back and I came and testified and they fined him a thousand dollars and he didn't have the money so they put him in jail. He found the money to get out of jail the next day and then he cleaned the yard up. But, why did it take him so long to clean the yard up. This is the point he found the money the next day and finally cleaned up his yard. This is the only case I know of that someone was put in jail and that was for one day. Mr. Cain stated he understood what the Mayor was saying but I am just bringing this to your attention because this type of penalty could be too severe and I am asking the Council Members to consider that. Mayor Jerkins stated he thought it was necessary to work with people that have a tarp on their roof but a car with a tarp is a little bit different. They are just trying to make the City look better and cleaner. Mayor Jerkins asked if anyone else would like to speak to the Council tonight. No one else spoke.

**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mr. Kimbrough stated he attended the meeting two weeks ago. We addressed the normal items and adopted the rate schedule applicable to this billing period. As I mentioned last week the Gas Company has purchased several of those homes right beside their building and they have demolished two of them and cleaned up that area.

**7. FINANCE DEPARTMENT
VIRGINIA REAGAN, CHAIRPERSON
Denise Soesbee, Finance Director**

- A. Financial Report
- B. 2012 Fiscal Year End Budget Adjustments

Ms. Reagan stated the list of adjustments has been submitted to you and I would like to have this as part of the minutes.

Ms. Reagan moved to follow the recommendation of the Finance Committee to approve the proposed 2012 Fiscal Year End Budget Adjustments. Seconded by Mr. Thomas. Motion passed (6-0).

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C. 2013 Fiscal Year End Budget Adjustments

Ms. Reagan stated the Finance Committee would like to amend the following account listed in the 2013 fiscal year end budget:

<u>Fund</u>	<u>Account Number</u>	<u>From</u>	<u>To</u>	<u>Purpose</u>
Solid Waste	540.4250.52.1200	\$67,500	\$75,000	Correct original printing of budget

Ms. Reagan moved to follow the recommendation to approve the 2013 fiscal year end budget. Seconded by Mr. Thomas. Motion passed (6-0).

8. GENERAL ADMINISTRATION

KIRSTEN ANDERSON, CHAIRPERSON

Carolyn Duncan, Director

A. No Report

9. POLICE DEPARTMENT

VIRGINIA REAGAN, CHAIRPERSON

Bob Starrett, Police Chief

A. Police Report

B. Code Enforcement Report

C. Property Registration Ordinance

Ms. Reagan asked Mr. Kimbrough if he had an update. Mr. Kimbrough stated he had reviewed the Ordinance from Powder Springs as well as comparing it to the new State law with regard to registration and foreclosed and bank properties and comports with State laws. I didn't know if you wanted to adopt for an Ordinance or if you wanted to reword for next Council meeting. Ms. Reagan stated she would like to reword it and have it ready for the next Council meeting. Mr. Kimbrough stated he had reviewed it and everything is in accordance with the new State Law that was passed and I will have it ready for the next Council meeting.

D. Nuisances: Noise Code (Discussion)

Ms. Reagan stated this item was discussed at pre-agenda and I would like to ask Chief Starrett to tell everyone what has been decided. Chief Starrett stated basically what we have decided to do is monitor a couple of locations that we have received complaints for noise violations.

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We have taken the decimeter there and the noise level is too loud. They have actually agreed to turn it down and they are monitoring it themselves. I was there for about four (4) hours this weekend on Saturday and they have cut the noise down. They would go out into the parking lot and check the noise level. We haven't received any more complaints so at this point and time we will monitor them. The question that was brought up was they are under the decibel requirements according to the code so right we are just going to monitor the situation and they are working with us. Ms. Reagan thanked Chief Starrett.

- E. Reception – Plaque & Pin Presentation – Randy Henson – 10 Years

10. FIRE DEPARTMENT

SCOTT THOMAS, CHAIRPERSON

Tim Williams, Fire Chief

- A. Fire Report

Mr. Thomas stated he would like to turn it over to Chief Williams. Chief Williams stated he would like to give everyone an update on the new fire truck. Chief Williams stated some of the fireman went up last week and everything looks good. They are leaving Wednesday morning and the truck will be delivered on Thursday to Macon Georgia. We have about a week's worth of things to do down there and we should be receiving the truck either the last of next week or the following week. We still have a little ways to go before we get in it in service but everything looks great. Also, our burn foundation boot drive total this year was three thousand five hundred and fifty-six dollars (\$3,556.00) which was very good for us. Both boot drives this year with MDA and Burn our total amount raised was six thousand five hundred twenty-four dollars (\$6,524.00) thanks to our citizens.

11. PUBLIC WORKS DEPARTMENT

KIRSTEN ANDERSON, CHAIRPERSON

Randy Bowens, Director

- A. Employee Reception – Plaque & Pin Presentation

Curtis L. McClendon – 35 Years

Michael F. Hays - 30 Years

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

A. GSA Proposed Improvements to Legion Park

Mr. Thomas stated the Parks Committee recommends approval of the proposed improvements by GSA. The proposed improvements are as follows:

- Field 1 move fence back 70 feet.
- Field 2 move fence back 90 feet.
- Move scoreboards on Field 1 and Field 2.
- Install new batting cages on the left field fence of Field 2.
- Install new batting cages near Field 1.
- Add netting between Field 3 and Field 4.
- Add covers to bleachers.
- Extend the office over the concession stand.
- Build deck across the side of the concession stand.

GSA will pay for all the costs associated with the project. (Please see attached proposal for further information).

Mr. Thomas moved to follow the recommendation of the Parks Committee to approve the proposed improvements by GSA. Seconded by Ms. Thomason. Mayor Jerkins asked if anyone had any questions. Ms. Reagan asked about the covers on the bleachers, is that permanent covers? The gentlemen from GSA stated no it is not permanent covers it is basically a sunscreen that goes over the bleachers to keep it shaded. Ms. Reagan stated o.k. and thank you. Mayor Jerkins asked if there were any more questions. Mr. Standard asked did we get the foul ball netting on Filed 1 to safeguard the player and the children and was that added to the list. Mr. Thomas stated, yes, they did add the netting to the fields. Mayor Jerkins stated so it would be added to this list is that correct? Mr. Thomas stated yes.

Mr. Thomas moved to follow the recommendation of the Parks Committee to amend the motion and add the foul ball netting to Filed 1. Seconded by Ms. Thomason. Motion passed (6-0).

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

A. Code of Ordinance changes

Ms. Thomason stated the Community Affairs Committee recommends the City adopt the attached new ordinance and changes to existing ordinance and it is Section 13-25 and states it be added as number seven. It states any tarp, plastic sheeting, or other temporary covering on any dwelling, house, building, fence, billboard, sign, other structure, or material stored outdoors for a period greater than ten (10) days. This paragraph shall not apply to any tarp, plastic sheeting, or other temporary covering used during the process of construction or repair of any structure which shall not exceed sixty (60) days.

Cars, motorcycles, boats and the like may not be covered by any material other than those made specifically for that use. Persons storing vehicles under approved covering shall supply a copy of current registration and insurance to code enforcement personnel upon request. The remainder is attachment we would like to add to the minutes.

Ms. Thomason moved to follow the recommendation of the Community Affairs Committee to approve the ordinance. Chief Starrett stated he had a question. Chief Starrett asked can you tell me what the penalty would be if you don't comply with the ordinance. Ms. Thomason stated it is at the end of Section 13 and it's for the whole thing and it is already in the Code book. It is Section 13-28. Chief Starrett stated if you could put that in the record and part of the minutes. Chief Starrett asked Ms. Thomason to please read it.

Ms. Thomason stated it is 13-28 and it states in every case, the owner or tenant fails to obey the nuisance in the time specified the court may issue an order to the Chief of Police directing the Chief to cause the nuisance to be abated. The Chief of Police in such case shall keep a record of the expenses and costs of abating the same and execution shall be issued against the owner, agent or tenant for the amount of the costs. The execution shall be enforced in the same manner as executions in favor of the city are levied and collected and shall be a lien on the property where on the nuisance was abated until such time as fully satisfied. This procedure is not exclusive.

(Code 1976, § 11-2003; Ord. of 5-4-81)

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Any person convicted hereunder may be punished as provided in section 1-8 for each offense. (Code 1976, § 11-2004) and it refers back to 1-8. Chief Starlet asked Ms. Thomason if she knew what the fine would be. Ms. Thomason stated she didn't know. Chief Starrett stated he was surprised by this because it had always gone through the Fire Department and I wouldn't know how to handle it. Ms. Thomason stated this was at the end of the code book on unkempt property. Mr. Graham stated this has been a code for years and years. Chief Starrett stated he had never seen this code and it is probably one of those codes that are obsolete now so this something you might wish to look at right now because I don't know how to do that. Ms. Thomason asked as far as the abatement part. Chief Starrett stated, yes, this has always been handled by the Fire Department. Mr. Kimbrough stated the Fire Department has been mainly concerned with the raising of property and safety of property and those types of things. But, there is the ordinance for unkempt property that people can be cited for. If there are any expenses that are incurred by the department for having these people comply those can be a lien just like when we demolish a building any expenses we have then we can put a lien on that property. Chief Starrett stated every Code Enforcement violation we have always cited them or a thousand dollar fine plus jail time if necessary. I have never seen anything like this before except under this section here. Ms. Duncan asked Mr. Kimbrough if the phraseology could mean simply ceasing and not continue what they are doing. Mr. Kimbrough stated as far as what. Ms. Duncan stated the word abatement could be construed as the person stop what they are doing. Mr. Kimbrough stated, oh, sure, and then the unsafe abatement for the Fire department is going in and moving structures that are unsafe. In this instance it is unkempt property and probably along those lines that act or lack of action by the citizen needs to be stopped and you have the ability to do that once you comply with the notice provisions and everything set forth in the code section. Chief Starrett asked do we still give a ten (10) day letter like we normally do. Mr. Kimbrough stated, yes just like you always have done. Chief Starrett stated, so we still write the citation but we still don't know what the penalty is, right? Ms. Causey stated that would be up to the Judge anyway, right? Mr. Kimbrough stated, yes, it would be up to the Judge but it would go back to 1-8. Ms. Thomason confirmed that it would go back to 1-8. Ms. Thomason stated I think 1-8 states a maximum of a thousand dollars (\$1,000.00) and one year. I believe that is what it says but I am not positive.

Ms. Thomason moves to follow the recommendation to adopt the attached new ordinance and changes to existing. Seconded by Mr. Thomas. Motion passed (6-0).

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B. Comprehensive Plan Short-term Work Program and Report of Accomplishments

Ms. Thomason stated she would like to this over to Mr. Kimbrough for a Public Hearing. Mr. Kimbrough stated he would like to call for a Public Hearing on the Comprehensive Plan Short-Term Work Program and Report of Accomplishments as presented in the minutes of this meeting. Mr. Kimbrough asked if anyone would like to speak on behalf of the City of Austell about the five year plan.

Mr. Graham stated what this is stating is in the last five what we have accomplished and the existing 2027 Comprehensive Plan was adopted in 2007 and is the long-range planning document that has helped guide the City of Austell over the past 5 years. As mandated by the 1989 Georgia Planning Act, the Comprehensive Plan establishes a guide utilized by the City of Austell to shape the community's preferred future.

The Comprehensive Plan is a model capable of being revised based on the changing needs of the community. This report describes the changing circumstances faced by the City of Austell and the state required Report of Accomplishments and new Short Term Work Program.

Mr. Kimbrough asked if anyone was present to speak in opposition or does anyone have any questions about the Comprehensive Plan Short-Term Work Program and Report of Accomplishments. Mr. Kimbrough asked if the Comprehensive Plan covers the last five (5) years and then we move forward to the next five (5) years. Mr. Graham stated we had to do the twenty Comprehensive Plan and every five years we have to update it and by looking back anything we didn't accomplish during that first five years we are still trying to achieve that goal. Some things might be put on the back burner that are not that easy to do and like I said it is sort of a wish list that we are required to do by law. It shows them we are in an aggressive mode toward our goals. Mr. Kimbrough asked if anyone had any questions of Mr. Graham. No one did. Mayor Jerkins stated we had the legal ads run twice on July 27, and August 3, 2012. Mr. Graham stated after the documents are signed tonight we will submit them to Atlanta Regional Commission to keep our local government status and they review it and if any changes are to be made they will send back to us. Mr. Kimbrough stated we now need to close the public hearing.

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

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Ms. Thomason moved to follow the recommendation of the Community Affairs Committee to adopt the Comprehensive Plan Short-Term Work Program and Report of Accomplishments to send to the Atlanta Regional Commission. Seconded by Ms. Causey. Motion passed (6-0).

14. ATTORNEY – DUPREE & KIMBROUGH

A. No Report

15. MAYOR'S REPORT

A. CMA MEETING

NO MEETING

TIME:

LOCATION:

16. ADJOURN

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