

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007**

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

Absent: Jim Graham

The regular meeting of the Mayor and Austell City Council was held on January 8, 2007, at 7:00 P.M. at City Hall.

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

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Scott Kimbrough, City Attorney, gave the Invocation. Mayor Jerkins led the Pledge of Allegiance. Mayor Jerkins asked if any member of the City Council would like to add items to the agenda. Ms. Boyd stated she would like to add 7B – Audit Report. Mayor Jerkins stated he would like to add 15B –Committee Appointments and 15C – Executive Session.

2. CONSENT AGENDA – INFORMATION AND UPDATE

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

3. CONSENT AGENDA

- A. Approve Bills
- B. Approve Legal Bills \$ 1,961.09
- C. Approve Minutes of Regular Meeting December 4, 2006

Ms. Boyd moved to follow the recommendation of Mayor Jerkins to approve the Consent Agenda. Seconded by Mr. Traylor. Motion approved (6-0).

4. EXCEPTION TO CONSENT AGENDA

5. CITIZENS REPORT

A. Burgess Baird – Sewer Easement

Mr. Baird stated he would like to thank the Council concerning his development. We are finally building some houses and I think we have got our Sewer Easement meeting scheduled today.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 2**

I also wanted to tell you I work in all the Metro Counties and I am very pleased to be working in Austell because your Department heads and employees are the greatest to get along with and help us resolve our problems. I think you need to know this because very seldom does someone pay a compliment to anyone these days. I think the City is very fortunate to have employees like you have. We are working on a couple more things and our subdivision is coming along very well. I am just trying to get the new sewer lines in for my subdivision.

**6. GAS SYTEM REPRESENTATIVE
JOE JERKINS**

Mayor Jerkins stated a meeting will be in two weeks.

**7. FINANCE DEPARTMENT
BEVERLY JAMES BOYD, CHAIRPERSON
Denise Soesbee, Director**

A. Financial Report

B. Audit Report

Ms. Boyd stated Mr. Jimmy Whitaker has given us a full report on our audit. Ms. Boyd asked if anyone had any questions. No one did.

Ms. Boyd moved to follow the recommendation to approve the audit report. Seconded by Mr. Traylor. 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

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 3**

B. Code Enforcement Report

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

A. Fire Report

B. Unsafe Building Abatement Hearing/Browning Property

Mr. Thomas stated at this time he would turn this over to Mr. Kimbrough, City Attorney, for a public hearing. Mr. Kimbrough stated at this time he would like to call for a public hearing for an Unsafe Building Abatement Hearing regarding the Browning property. Mr. Kimbrough asked who would be speaking on behalf of the City. Chief Tim Williams stated he would be speaking. Mr. Kimbrough asked who would be speaking for the Browning property. Attorney James Ausenbaugh stated he would be representing the Browning property. Everyone was sworn in by Mr. Kimbrough.

“Chief Williams stated to the Mayor and Council the property in question is located at 5569 Fessenden Avenue and in June of 2006 there was a house fire in the garage area and kitchen area and it left substantial damage, structural damage and roof damage as well as framing. We have inspected the structure with the recommendation to be repaired with Code specifications or be demolished for reasons mentioned”.

Mr. Reagan asked what date the fire happened. Chief Williams stated in June 2006. Ms. Boyd asked if there had been attempts to repair or clean the property. Chief Williams stated no repairs had been made although they have cleaned up the garage area somewhat and there was an automobile in the fire and they have removed the vehicle. Some of the debris has been hauled away. No building permits have been posted. Ms. Boyd asked how current had anything been done on the property. Chief Williams stated not in the last two to three months. Mr. Kimbrough asked the council if they had any more questions. None did”.

The Attorney James Ausenbaugh, representing the Brownings asked Mr. Kimbrough if he could speak and Mr. Kimbrough stated he would rather the owner speak on their behalf.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 4**

Mr. Timothy Browning introduced himself to the Mayor and Council and stated at this point this has put us in a financial bind. We are currently considering other alternatives because there was no insurance on the home because the home is in trust. The trustee is my wife's brother and he cancelled the homeowner's insurance. We have done what we could by borrowing the money from family and friends as far as cleaning up and boarding up the house. We are in a serious financial situation. At this point, we are considering some things to do with her brother who is the trustee and has really stopped sending funds for the house and has done nothing. Mr. Kimbrough asked whose name the house is in. Mr. Browning stated the house is actually in the name of the trust. Mr. Kimbrough asked what the name of the trust is. Ms. Robin Thomas Browning stated it was in her name, Robin Thomas, which is her maiden name. Mr. Kimbrough asked again, who is the trustee of this trust. Mr. Browning stated his name is Samuel Thomas Jr. Mr. Kimbrough asked is Mr. Thomas here tonight? Mr. Browning stated he is in North Carolina. He received the notice about the hearing and he called Robin, his sister, and asked why they are calling me and decided not to show up tonight. Mr. Kimbrough asked Chief Williams if Mr. Thomas had been notified. Chief Williams stated, no, we did not send a certified notice. Mayor Jerkins stated he would like to comment on this matter. He stated Leo Clifton handled the estate and I have spoken with Leo and Leo told me the brother Sam lives in North Carolina and I asked for his phone number. Leo stated he was not sure if he could give it to me. I then asked Leo to give the brother my phone number and ask him to call me. He did call me and did not have much to say. I told him we had this hearing tonight. I also told him we had several persons interested in buying the house. Sam told me he had turned the house over to his sister. Mr. Browning stated no notice has been received. Mayor Jerkins stated Sam had told him the sister would be getting insurance on the house. Mr. Kimbrough asked Chief Williams if he had spoken with Mr. Thomas. Chief Williams stated, no.

Mr. Browning stated we have seen nothing to indicate the house has been turned over to her rather than trust. Mayor Jerkins stated it has been over six months ago since the fire and something needs to be done. The house looks awful and something has to happen on this situation. Your attorney may want to respond to this. Attorney James Ausenbaugh stated, yes; he agreed something needs to be done.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 5**

We recently received a bid to have the home demolished but the homeowners simply do not have the money to pay for this. The question is if the money from this trust can be released to pay for the demolition.

We have not been able to get the funds released from the trust and this is all the money they have at this time to get the demolition accomplished. Mayor Jerkins asked would it not be better to sell the house and property instead of the demolition. Attorney Ausenbaugh asked if his clients Mr. and Mrs. Browning could have a little more time on this to get the money from the trust and pay for the demolition. Mayor Jerkins asked what kind of timeline you are talking about. Mr. Ausenbaugh stated if Mr. and Mrs. Browning decide to keep the home it may involve a lawsuit with the trustee which could take a long time. Mayor Jerkins stated a lawsuit could take up to one year and half and we cannot wait that long. Your wife, Ms. Browning stated she had already filed a lawsuit and Sam Jr. did not verify this to me when I spoke with him. Sam did not give me a lot of information. Mr. Browning stated this was a different lawsuit in probate court. Ms. Boyd asked if there were enough monies in the trust to pay for the demolition. Mr. Ausenbaugh stated, yes, there was more than enough to pay for the demolition but maybe not enough to pay for repair of the house. The bid we received was for eleven thousand dollars (\$11,000.00). Ms. Boyd asked, if this was for the entire house and to level the house. Mr. Ausenbaugh stated, yes, it was. Ms. Boyd stated she didn't think the Mayor and Council could wait any longer without any activity at all. Three months have already gone by and nothing has been done.

Mayor Jerkins suggested we give them until the next Council meeting which is February 5, 2007. This will give you another month at which time the Council can vote to condemn the house and tear it down. I want you to understand this. I think it is more than fair to give you one month to get your act together and get something done. You need to have it on the market to sell or do the demolition. You will have exactly one month from today to do something or we will have to take further action and tear it down and put it against the property. Mr. Browning stated he understood. Ms. Anderson stated, you mentioned selling the house and stated Mr. Sam Thomas was the trustee can you sell the house without his consent? Mr. Ausenbaugh stated, no, they cannot. You mentioned it was eleven thousand dollars to have it demolished. How can they have enough money to repair the home? Mr. Ausenbaugh stated he didn't know unless they could get a loan.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 6**

Ms. Boyd stated if the house is not titled to them they can't get a loan on it. Mayor Jerkins asked Mr. Ausenbaugh if he had spoken with Sam Thomas Jr.

Mr. Ausenbaugh stated, no, because he was represented by counsel and was not allowed. Mayor Jerkins stated it was hard for him to understand why they don't wish to sell the house. According to Sam Jr., he was going to make a recommendation to Mr. and Mrs. Browning to sell the home with his permission. Mr. Browning stated the only time he had heard from Sam Jr. was a couple of times. One contact was way before the house burned when we were involved in the lawsuit about the trust setup for Robin. The other was after the fire and he stated why was he being contacted about the house and he was not going to release any funds from the trust fund. Nothing was mentioned about selling the house and he has asked to be absolved from the house. Mr. Browning stated they had a quitclaim deed from Sam Jr. and her sister, Sally, relinquishing their rights to the house. Mayor Jerkins stated the quitclaim deed I read was from the mother turning it over to the trust. Sam Jr. is the trustee. Mr. Ausenbaugh stated the trust definitely owns the house. The trustee is Sam Thomas, Jr. Mr. Kimbrough asked if Robin had an interest in this trust outside the house. Mr. Ausenbaugh stated, yes, one-third interest. Mr. Kimbrough stated, so, Robin has one-third and two-thirds are in a trust. Mr. Ausenbaugh stated, yes, that is correct. Mr. Ausenbaugh stated, no, I am not sure about that because her mother's will gave property to her brother and sister outright and hers was in a trust. I believe the house was also included. Mr. Browning stated, the house was to be sold but in lieu of that they invited us to move into the house and they eventually sold off their shares to her. Mr. Kimbrough asked Mr. Ausenbaugh if anything Robin received was to be put into a trust. Mr. Ausenbaugh stated the entire legacy was to be placed into a trust. Mr. Kimbrough asked if Robin owned anything outright. Mr. Ausenbaugh stated, no, the trust owns the entire interest of the house. Sam Jr. is the trustee of the trust. Mayor Jerkins stated the trustee, Sam Jr., needs to be notified and something needs to be done by February 5, 2007.

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

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 7**

Ms. Boyd moved to follow the recommendation of Mayor and Council the Brownings be given until next Council Meeting on February 5, 2007 to come back and give a report and plan of action and to table the demolition until that time. Seconded by Ms. Reagan. Motion passed (6-0).

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

A. Stormwater Management and Erosion and Sedimentation Control Position Title

Mr. Traylor stated the Public Works Committee would like to recommend a change for the position title of Office Manager to Operations Manager. At the direction of the Public Works Director, this position will oversee operations within the Stormwater Management and Erosion and Sedimentation Control Programs. A draft job specification for this position is attached for your review. We are asking his pay grade start at Range 3 Step 4 which is \$16.29/per hour or \$33,883.00 per year. We have added an addendum to the job description stating any additional duties asked by Mayor and Council be included. Ms. Boyd asked if this would be a salaried position. Mr. Traylor stated, yes, it would be a salaried position.

Mr. Traylor moved to follow the recommendation of the Public Works Committee to approve the Stormwater Management and Erosion and Sedimentation Control Position Title. Seconded by Ms. Reagan. Motion passed (6-0).

B. Recycling Services Survey

Mr. Traylor stated all cities within Cobb County were surveyed on their recycling services. Attached is a copy for your review. We would like to ask to continue this and do a survey because we still have plenty of time. Our current contract will not end until December 2007. I would like to ask we table this item until the next Council meeting on February 5, 2007. This will allow us to have a committee meeting before that date.

Mr. Traylor moved to follow the recommendation to table this item until February 5, 2007. Seconded by Ms. Reagan. Motion passed (6-0).

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 8**

C. Purchase of New Leaf Collection Truck

Mr. Traylor stated, over the past several months, our leaf machine has been down due to mechanical and parts failure. Since this is the season where most leaves are collected, it is important that we have our equipment up and running efficiently. Therefore, I am recommending the purchase of a new leaf collection truck. We would keep our existing collection truck in service.

We have contacted our current vendor, Old Dominion Brush Company, and would like to purchase model SCL800-3X. We have reviewed the specifications and feel that this would be suitable for the department.

This particular model can be utilized as a one man operation that controls the entire process from the cab of the truck. This would also free one staff member that would be assigned to another project.

Since we have used Old Dominion Brush Company for many years and have been pleased with their products and services, we are asking that the three bid rule be waived. The purchase price of this truck is \$129,100.00. As with our other large equipment purchases we would finance this for a 36-month period through ANB Leasing. It would be a fixed rate of 4.75% for the term at an annual cost of \$47,148.17. Attached for your review are the specifications.

Mr. Traylor moved to follow the recommendation of the Public Works Committee to approve the purchase of a new leaf collection truck. Seconded by Ms. Boyd. Motion passed (6-0).

12. PARKS DEPARTMENT

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

A. No Report

13. COMMUNITY DEVELOPMENT

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

A. Austell Museum

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 9**

Ms. Boyd stated for several years our City Museum has been located in the Austell Community Center, but, as you know, the museum has not been open to the public in quite some time.

I have had several conversations with the Mayor regarding this project. He and I believe if we relocate the Museum to the Threadmill Complex in the space across from the Library (Suite 120), it will offer greater exposure to our citizens and visitors.

Although we currently have items in the old museum, many of which will be displayed, it would be ideal to canvass the community for additional items that could be either donated or loaned to add to our permanent collection. I believe an article in the next newsletter would get this process started.

The Mayor and I support revitalizing and moving the museum, and feel that this can be accomplished with current staff members.

Ms. Boyd moved to follow the recommendation to move the museum to the Threadmill Complex. Seconded by Mr. Green. Motion passed (6-0).

14. CITY ATTORNEY – DUPREE, KING & KIMBROUGH

A. No Report

15. MAYOR'S REPORT

A. CMA MEETING

DATE: JANUARY 9, 2007
TIME: 6:30 P.M.
LOCATION: MARIETTA – Cobb County Chamber of Commerce

B. Appointments for Committee

Mayor Jerkins asked each Council member if they were satisfied assigned to the different committees. All Council Members stated, yes, they would stay assigned to their Committees. Ms. Boyd asked if a motion needed to be made. Mayor Jerkins stated no motion was needed and he approved the appointments for the Committees.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JANUARY 8, 2007
PAGE 10**

C. Executive Session – Sign Ordinance Lawsuit

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

16. ADJOURN

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