

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, APRIL 5, 2010**

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

Absent: Jim Graham

The regular meeting of the Mayor and Austell City Council was held on Monday, April 5, 2010 at 7:00 P.M. at the City Hall.

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

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Hylton Dupree, City Attorney gave the Invocation and Mayor Jerkins led the Pledge of Allegiance. Mayor Jerkins asked if any Council Member would like to add items to the Agenda. Ms. Reagan stated she would like to add 9F. – 10-7-4 Ordinance for Hardened Surfaces/Information Only. Ms. Causey stated she would like to add 13A – Rose Hill Cemetery Fence and 13B- 2010 Halloween Festival.

Ms. Causey moved to follow the recommendation of Mayor Jerkins to approve items added to the Agenda. Seconded by Ms. Anderson. Motion passed (6-0).

Mayor Jerkins presented a twenty-five year plaque and pin to Captain Chris Bianchi and thanked him for years of service and his dedication and hard work. Mayor Jerkins presented a five-year pin to Sgt. David Corvin and thanked him for his efforts and hard work.

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 \$1,495.00
- C. Approve Minutes of Regular Council Meeting March 1, 2010

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

Mayor Jerkins read the Proclamation for Alcohol Awareness Month. Ms. Alissa Bennett-Hart received the Proclamation and thanked the Mayor and Council.

Ms. Reagan moved to follow the recommendation to accept the Proclamation for Alcohol Awareness Month. Seconded by Mr. Thomas. 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. Mike Otten stated he lived in Cureton Woods and he had a couple of questions. It has to do with the flood and I would like to ask if the City would be responsible for the clean-up of homes in Cureton Woods and Autumn Brooks. The other is Sweetwater Creek and how it can be cleaned up. I talked with Caraustar today and talked with them about an environmental fund to clean up some of the waste that it is the trees next to the bridge. The businesses on Austell-Powder Springs Road are collapsing and what can we do particularly between the businesses and Cureton Woods and Autumn Brooks. Also, animals are roaming through the empty homes especially Autumn Brooks. I have called the Police several times to intercept people who are going into these homes and stealing things. There is also mold and dirt in these homes and this summer there will be kids around going into these homes and it will be very dangerous.

Mayor Jerkins stated Mr. Bowens and I have discussed the Autumn Brooks situation and five or six of the homes are owned by one person. We have contacted them and they are on the buy-out program, all of them, but they are not in the first tier they are in the second tier. Mayor Jerkins asked Mr. Bowens when you think they will get to the tier two. Mr. Bowens stated sometimes in September. Mayor Jerkins stated what we can do now, is ask them to clean the yards and wash the outside of the homes. Move the two cars and move them out. What we are asking them to do is clean the houses up and get the houses where they can lock them. They have said they will do this. Mr. Bowens stated he was meeting with them tomorrow at 9:30 A.M. Mr. Summerville and Mr. Jones. The addresses on the rental property are, 6000, 6010, 6030, 6080 and 6085. This property is owned by one individual BT Custom Homes.

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I have made contact with the two of the three and they are planning to come back out and do some additional work. They have actually stripped their homes and have those secured. They have plywood over the doors where the doors were missing. They have replaced the garage doors where those were missing and the doors are locked. The windows are opened upstairs so they can vent out. They assured me they would be back out there to start some repairs on the structures. Mr. Summerville and Mr. Jones will meet with me tomorrow and we have given him a preliminary on what we need as far as secure instructions on cleaning up the outside portions of it. He was concerned about the two abandoned cars but I told him to speak with the Police Department because they have been there since September 19, 2009. I don't think he will have any problem having them removed and disposed of. Mr. Otten asked Mayor Jerkins do you have any idea what will happen to Autumn Brook. Mayor Jerkins stated he doubted very seriously if they would be bought out. It is not likely to happen. Mr. Otten asked if the homes would be demolished. Mayor Jerkins stated they would have to fix them up again or they will probably end up with the banks owning them if they don't buy them out. It is hard for us to go in there and try to make them tear them down or to do something with them under the program. Mayor Jerkins stated it will be September before we can get anything done. Mr. Otten asked what about the businesses along Austell-Powder Springs Road. Mayor Jerkins stated we are getting ready to send letters on all of them. Actually, there is a car lot and they will have to do some things. There are two or three businesses. One of the businesses has some acid spilled across from the park. The EPD has been working on that to get it cleaned up and they have had to spend a chunk of money. I don't know what we can do but we will send a letter to all the businesses and take some action. Mayor Jerkins stated your question about Sweetwater Creek. We have the Park side cleaned up trees and all. I went down there Friday and walked around. The other side of the creek is really in bad shape. There is probably a tractor trailer load in bundles along the side of the creek. I don't know exactly how we will get to them unless we cut some trees down. We have applied for a grant for \$25,000 and I am not sure who it is through but I think it has been approved. I don't know what part that will play in cleaning that up. Mr. Otten stated when he spoke with Carastar's council and they have a priority list of projects that are environmental. They have an environmental consultant to work on these projects. She said she would get back in touch with me over the next couple of weeks. Mayor Jerkins stated as I said we have applied for the grant and I don't know how long it will be before we can get it. We will be working on some of that as well. This is something we are concerned about. Mr. Otten asked about a golf course that was talked about some time ago.

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Mayor Jerkins stated, yes, we had talked about a golf course even though the City had no intentions of building it. It is about five million (5M) dollar project. We had two different people who wanted to lease the property. We were going to give them a fifty year lease and everything fell through because of the economy. This is something that probably will not happen.

**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mayor Jerkins stated the meeting was held and the gas prices fluctuated quite a bit. They sold a lot of gas and the gas was a little bit cheaper than last year.

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

- A. Financial Report

**8. GENERAL ADMINISTRATION
KIRSTEN ANDERSON, CHAIRPERSON
Carolyn Duncan, Director**

- A. No Report

**9. POLICE DEPARTMENT
VIRGINIA REAGAN, CHAIRPERSON
Bob Starrett, Police Chief**

- A. Police Department
- B. Code Enforcement Report
- C. Fat Cats - Alcohol Violation Hearing

Ms. Reagan stated the Police Committee would like to table this item due to Mr. Estes having surgery today and he will not be able to attend this meeting.

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Ms. Green moved to follow the recommendation of the Police Committee to table this item. Seconded by Mr. Thomas. Motion passed (6-0).

D. Margarita's – Alcohol Violation Hearing

Ms. Reagan stated we have an Alcohol Violation Hearing and at this time I would like to turn this over to Mr. Dupree, City Attorney.

Mr. Dupree asked who was present to represent Margarita's. Mr. Torso stated his name and stated he was the owner and the representative for Margarita's. Mr. Dupree asked who would represent the Police Department. Chief Starrett stated he would. Mr. Dupree swore in Mr. Torso and Chief Starrett and Sergeant David Corvin.

Sergeant Corvin stated the City of Austell Police Department was doing a Alcohol Compliance Check. A lady named Blair Maxwell who was nineteen years old went into the establishment and ordered a drink and was served by the waitress. We then received a phone call and told she had been served a drink and then we went into the building and saw her in a booth and there was a mixed drink in front of her. Mr. Dupree asked how old was she and Sergeant Corvin stated he believed nineteen. Mr. Dupree asked if she had I.D. and Sergeant Corvin stated, yes, she did. Mr. Dupree asked if it was in fact her I.D. Sergeant Corvin stated, yes, it was her I.D. and it showed her age and it was a Georgia Drivers License. Mr. Dupree asked Ms. Reagan if she had any questions. Ms. Reagan stated, no, she did not have any questions.

“Mr. Torso stated he was very upset on this particular day. We try to train our employees on how to I.D. everyone. She was my oldest server that I had working for me. I am very upset because not only do I look bad and have to stand before you guys and explain ourselves and I am trying to build a good relationship between myself and the City as well as a good reputation. Every time I have to explain myself after awhile you guys will not believe me anymore. She did make a mistake and lost her job. I have hired a new management team for the restaurant because I needed it. I know I have regular customers that come to my restaurant and my goal is to have a quality establishment here in the City of Austell. To build something we can all be proud of. I feel like I am heading in the right direction but when employees do something like this and not paying attention.

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I don't really know what happened because she is usually really good about the I.D.'s for everyone in general. All I can say is they dropped the ball. Mayor Jerkins asked Mr. Torso if his waitresses had been to training. Mr. Torso stated, yes, we are doing like quarterly training and we now have an electronic board that shows the date and the year someone is born. The employees just do not do what they are supposed to do. It's tough for me and I know these kind of things happen. Other than that I feel like we have done well. What really bothers me the most is these kids need the money to pay their bills just like we do and now she is looking for a job. Mr. Thomas stated, I understand you did say you have the electronic boards in your establishment. Mr. Torso stated, yes I do. Ms. Anderson stated, so she failed to ask for an I.D. all together. Mr. Torso stated he knew she asked for an I.D. but apparently did not check with the machine. I know the kids today are making their own I.D.'s and they are being made in a way where you can't tell the real from the fake. Mr. Standard asked what day did this happen. Ms. Reagan stated it was December 8, 2009. Mr. Green asked don't all Georgia Driver's License have under 21 in big red letters. Sergeant Corvin stated no, not all of them. Mr. Green stated it should be very obvious that they are not twenty-one (21). Mr. Green stated in all Georgia Driver's License that I have ever seen it clearly shows in red letters under twenty one. Mr. Torso stated and sometimes it has it right on the side of the picture I.D. Like I said, I take pride in what I do and it is very hard for me when something like this happens. I think I am on top of my game. I know for a fact she asked for I.D. but failed to clarify the year and the age. Mr. Standard asked under this ownership how many violations have there been. This is the second violation in over a year. Mayor Jerkins asked did the person that served on the first violation get fired. Mr. Torso stated, yes, she did. That is why, when, this happened I already knew what I had to do. It bothers me a lot and having to fire someone but it is the nature of the business I am in. For the most part my establishment is considered a restaurant not a bar. We are not trying to push liquor on anyone. We just want it to be a restaurant where you can come and have a casual drink. I do have some customers that are drinking a little bit more than I think they should. I do tell them it is not a bar it is a restaurant and they can find another place to drink. Mr. Standard asked if this violation was during any kind of probation period. Ms. Reagan stated no. Mr. Green asked how long was the probation period the first time. Ms. Reagan stated it was three months. The way I have it set up right now not only would the server be in trouble I have a manager that comes from an Olive Garden chain and has twenty years experience.

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His job will be based on the performance in the restaurant. I guaranteed you the training will be more often if needed so that everybody understands. My biggest problem is I am too nice and I like to give everybody the benefit of the doubt. But, now that I have a restaurant I need to step it up a little bit and perform a little bit better. Mr. Green stated the problem is what if a minor came in and had drinks and you didn't notice it and then left and killed someone. Who would be responsible? Mr. Torso stated, yes, this bothers me because I have young children and I have two daughters who are about to turn eighteen years old. They think they are forty-five and I want them to be able to eat out, but I also want them not do the things they shouldn't be doing. If your children came to my restaurant you would want them to behave and act appropriately. I don't need to make anymore friends because I need to serve them a drink even if they are not supposed to have it. I tell my children I don't care if you hate me you will not do it and one day you will understand. There is a place and a time for everything, and the consequences we see happening on the news all the time so I do understand. So, I hope you guys will not see me here anymore. Mayor Jerkins stated he was in the business for fifteen years and never had a violation selling to a minor and I was very strict. The problem I have is, in a way your employees have your business in their hands. They could easily get you closed and I really don't think this is right. Did the person come before our Court? I feel like the person that did the selling and if it was you then we need to get serious with you, but of course we need to get serious anyway. The person that does the selling, needs to be something done with them instead of just fining them a hundred and fifty dollars. It will continue as long as nothing is done to them except for a small fine. The employees have your license in their hands. If they sell to a minor they can easily get you closed. Mr. Torso stated his wife was there the day it happened and she was very upset. The lady we had to let go was a good friend of my wife. Mr. Standard asked if under probation and a business gets a violation what are the consequences of that. Mayor Jerkins stated it would be up to the Council. Mr. Standard stated so it is not written in stone. Mayor Jerkins stated no, but we could easily pull the license without any problem. They are privileged license and they can be pulled. It is a serious matter and people have to take it seriously. Mr. Torso stated I do have the new manager who will be charge and I will be on top of him all the time. I expect him to do the same with the employees and make sure the customers are satisfied. Also, to be extra careful with the kids coming in and thinking they can get a drink and get away with it. Mr. Standard asked Mr. Torso if he ever considered bringing someone in like the Police Officers do to check to see if the servers check the I.D.'s.

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This would be someone your employees would not know at all. This would give you a heads up on what your servers are doing. Mr. Torso stated he had thought about that because there was someone there he didn't like and thought he could let them go because they weren't doing their job properly. Mr. Green stated most of the time you can look at someone and tell how young they are. Mr. Standard stated any establishment, airport or anywhere it doesn't matter how old you are they card you and you have to have I.D. Mr. Torso stated, yes, we do that as well. We have regular customers that come in two to three times per week and they don't want to be bothered all the time. Some customers don't mind but some do get upset. Like I said I am doing everything I can to avoid this issue again. I know that you have an excellent Underage Force that does a good job. These guys are pros and we have to step up to our game somehow. Like I said this young lady was great and made a mistake. Mr. Standard stated this brings up an interesting question, how often does the Underage Force go in there and check on them asking for I.D.'s. Mayor Jerkins asked Chief Starrett how many times they check every year. Chief Starrett stated four times a year. Chief Starrett stated we check four times a year unless we get a complaint. Mr. Green stated that is not an issue when you look at someone and decide they are young enough to be carded. If they look young enough to be carded then they need to be carded no matter how many times they check them. Mr. Torso stated we just need to card everyone across the board. It was brought to my attention and if the person could be thirty-five years old they need to be carded because they may have lost their license because they have a drinking problem. We try to tell our employees it really doesn't matter just ask for their I.D. Mr. Standard stated you can check it but if you don't know how to calculate it and just look at it this is a problem. Mr. Torso stated I am telling everyone to take the I.D. and present it to me or the manager in charge. We also want to make sure it is a valid I.D. I know the kids can print I.D. off the internet. We are just trying to make sure we cover all the bases. Mayor Jerkins asked Ms. Reagan what her recommendation would be. Ms. Reagan asked Mr. Torso what was his business address. Mr. Torso stated it was 2856 Veterans Memorial Highway.

Ms. Reagan moved to follow the recommendation of the Police Committee for the Privilege License of Margarita's located at 2856 Veterans Memorial Highway, Austell, GA 30168 owned by Mr. Eric Torso to be put on probation for six (6) months. Seconded by Mr. Thomas. Motion approved (6-0).

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Mayor Jerkins stated to Mr. Torso he would be on probation for six months and during that time if any violations occurred his business could be closed. Mayor Jerkins suggested to Mr. Torso that he try to keep a close watch because if not his business could be closed.

E. 5 Year Pin – Sgt. David Corvin

F. 10-7-4 Ordinance – Information Only

Ms. Reagan stated she would like to clarify the 10-7-4/Harden Surfaces “Ordinance”

Code Enforcement would like to clarify the above Ordinance.

On December 2, 1996; a change in Ordinance #10-7-4 was approved by Council to clearly define “Harden Surface” for parking vehicles in a residential area.

The definition of a treated and harden surface includes gravel, concrete, asphalt, brick, stone, paver tiles and similar materials.

Mr. Standard stated he did have a question about the Code Enforcement Report. The address 2300 Veterans Memorial Highway is that the trailer park. Mayor Jerkins stated yes, it was.

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

A. Fire Report

B. Unsafe Abatement Update

Mr. Thomas turned the Unsafe Abatement Update over to Chief Williams. Chief Williams stated the Brooks Drive property, which is Mr. Traylor’s property, has been placed in the FEMA Tier 1 buyback program. This is different from what we bought to Council a couple of months back. We are currently waiting now for the Tier 1 buyback program. FEMA had originally told Mr. Traylor he would be bought back and was offered a buyback sometime ago. The Tier 1 survey was placed in the Tier 1 buyback program and he is currently on hold until that program comes full circle.

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Also, the Mulberry Street property owner, Mr. Charles M. Perry, will be here next month. His time period for repair completion will be up at the beginning of May.

The 6064 Pine Street property is owned by Ms. Lynda White Williams, and I have been contacted by Ricardo Anderson last week asking for a sixty day extension. Mr. Anderson told me he has purchased all of the material and he was here earlier but he is not here now. The decision will need to be made tonight. Mr. Thomas stated he spoke with me tonight when he was here. Mr. Thomas stated he told me the same thing he told you that he had purchased the materials and needed a sixty day extension. Ms. Causey stated the Pine Street property hasn't paid city taxes since 2004 or County taxes for the last two years. Mr. Thomas stated he wasn't aware of this. Ms. Causey stated she had a copy of the information. Mr. Standard asked if Mr. Anderson had bought the materials to take it out of its unsafe status. Mr. Thomas stated yes, that's right. Mayor Jerkins asked Chief Williams if any work had been done since the sixty days. Chief Williams stated there is no evidence of work that can be seen from the street. Mr. Thomas stated Mr. Anderson stated he had bought the materials. Mr. Standard asked is there any pile of materials over there? Can we check this out? Mr. Thomas stated he would like to recommend giving him another sixty days. Mr. Standard stated if he hasn't done anything by this session, I mean we have had a beautiful weekend and if they make an effort and put more than an afternoon or 1 day into it that's one thing. But, if they look like the day before the council meeting they try and do something then that's not good enough. Mr. Thomas stated why don't we give them sixty days and review in thirty days. Mr. Standard stated why not thirty days and come back and review in thirty days. If you give them sixty they will wait sixty days to do something. Ms. Causey stated they need to be notified about their taxes. As of right now they owe the City of Austell \$408.61 on city taxes. Mr. Thomas stated we leave that up to the tax department. Mayor Jerkins stated the tax is a different issue. The only thing we might do is speak with the County and put it up for sale. Mr. Standard asked if the city was providing any services that the tax would pay for. Mayor Jerkins stated, no, not that he is aware of. Mr. Standard stated there is gas and water at the location. Mayor Jerkins stated well, there is no one living there. This is an entirely different issue and we don't need to get into that.

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Mr. Thomas moved to follow the recommendation of the Fire Committee to give them until next Council meeting on May 3, 2010. We will review and see if they have made any progress. Seconded by Ms. Reagan. Motion passed (6-0).

Mayor Jerkins asked Chief Williams about the Lakeview Court property. Chief Williams stated this property is on hold as well. Mr. Kimbrough attempted to contact Mr. Key and I am not aware that Mr. Kimbrough did in fact reach Mr. Key. Ms. Anderson asked if this property was affected by the flood. Mayor Jerkins stated he did think some water got into the structure.

C. Laptop Grant/ Purchase (Information Only)

Mr. Thomas stated in January, the Department of Community Health awarded the Georgia Association of EMS with the Enhancement of Patient Care Reporting Grant for the purchase of Panasonic Toughbook Computers. Our Department was notified that our application had been selected to receive one of these Toughbook units. The Grant award is for a total amount of \$1,445.00. The Toughbook must be purchased from the state approved vendor CDW-Government. The total cost of the unit is \$3,127.21. The difference in cost, \$1,682.21 will come from the current Fire Department budget line item 54.2400. The full amount will be initially paid by the City, and then we will submit for the portion to be reimbursed through the Grant Program.

This Panasonic Toughbook Computer will replace the current unit on Fire Engine 2. The current unit, a Motorola, was also part of a previous Office of Domestic Preparedness Grant Program from 2005.

**11. PUBLIC WORKS DEPARTMENT
MARTIN STANDARD, CHAIRPERSON
Randy Bowens, Director**

A. No Report

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12. PARKS DEPARTMENT

RANDY GREEN, CHAIRPERSON
Jim Graham, Director

- A. No Report

13. COMMUNITY DEVELOPMENT DEPARTMENT

TRUDIE CAUSEY, CHAIRPERSON
Jim Graham, Director

- A. Rose Hill Cemetery Fence

Ms. Causey stated the Community Affairs Committee recommends approval from Mayor and Council for city crews to remove the chain link fence that surrounds Rose Hill Cemetery.

The fence is not only damaged in places it also creates a hardship for funeral homes needing access to different areas of the cemetery.

Ms. Causey moved to follow the recommendation of the Community Affairs Committee to approve the city crews to remove the chain link fence that surrounds Rose Hill Cemetery. Seconded by Mr. Standard. Motion passed (6-0).

- B. 2010 Halloween Festival

Ms. Causey stated considering the extensive and unexpected costs to the City in dealing with flood related expenses, the Community Affairs Committee recommends the 2010 Halloween Festival be cancelled. There is also the possibility the expected FEMA money needed for repairs will not be available in time to have the park ready.

The cancellation will allow this department to greatly reduce the amount of funds ordinarily budgeted for Special Events.

Ms. Causey moved to follow the recommendation of the Community Affairs Committee to approve the cancellation of the Halloween Festival. Seconded by Mr. Thomas. Motion passed (6-0).

14. CITY ATTORNEY – DUPREE & KIMBROUGH

A. No Report

15. MAYOR'S REPORT

A. CMA MEETING

DATE: APRIL 13, 2010
TIME: 6:30 P.M.
LOCATION: POWDER SPRINGS/THE MAGNOLIA HOUSE

B. Proclamation – Alcohol Awareness Month

Ms. Reagan moved to follow the recommendation to accept the Proclamation for Alcohol Awareness Month. Seconded by Mr. Thomas. Motion passed (6-0).

C. \$30,000 Grant to be used for Flood Needs

Mayor Jerkins stated the State had called him and explained they had individually donated some money and felt like we needed it ,more than anyone and wanted us to have it. They wanted us to use it for something related to the flood. We want to build a building down at the barn and to get it on higher ground in case we have another flood. The building will cost about \$70,000.00. We have about \$20,000.00 left over from the insurance on our other building. That will be about \$50,000.00 and we will have to take the other \$20,000.00 from the contingency fund. We have to have it completed by September 30, 2010 because of the grant. I need you to vote on this so we can get it underway.

Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the \$30,000.00 Grant to be used for the new facility for the Barn to get it on higher ground. Seconded by Ms. Anderson. Motion passed (6-0).

16. ADJOURN

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