

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JUNE 3, 2013**

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

Absent: Virginia Reagan

The regular meeting of the Mayor and the City Council was held on Monday, June 3, 2013 at 7:00 P.M. at City Hall.

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

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Reverend Mike Martin gave the Invocation and Mayor Jerkins led the Pledge of Allegiance.

Mayor Jerkins asked the Council if they had any items to add to the Agenda. No items were added.

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 \$991.40
- C. Approve Minutes of Regular Council Meeting May 6, 2013

Ms. Causey moved to follow the recommendation of Mayor Jerkins to approve the Consent Agenda. Seconded by Ms. Thomason. Motion passed (5-0).

4. EXCEPTION TO CONSENT AGENDA

5. CITIZENS REPORT

Mayor Jerkins asked if anyone would like to speak to the Mayor and Council. Mr. Udo Ukadik stated his name. He is trying to establish a business in the City of Austell. There is a misunderstanding as to what kind of business it is. I wanted to come and explain myself to you and to tell you exactly what I am doing. The company name is Shalom Auto, LLC. and the kind of business it is, we buy stuff and ship them and we are a full automotive company we do mechanic work and we fix cars. We have loading docks where we also order stuff and they ship it to us and then we in turn ship it out.

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I believe there have been a lot of misconceptions about the business and what we are doing. I felt it was very important to come to the Council meeting and explain. This is what we do. When I came my landlord told me this place is licensed for what I am doing and it was light industrial. I was told this before I signed the contract. Code Enforcement came by and told me I couldn't do what I was doing. Code Enforcement then told I needed to go to the City and explain to you. Mayor Jerkins asked Mr. Ukadik if his business was on Cousins Street. Mr. Ukadik stated yes, he was on Cousins Street. Mayor Jerkins stated you are buying automobiles and disassembling them and shipping them overseas. Chief Starrett is saying yes and you are saying what. What you are doing is creating a junk yard. Mr. Ukadik stated no, he wasn't creating a junk yard. Mayor Jerkins stated in our eyes you are creating a junk yard. When you start taking cars apart you are creating a junk yard. You have to have a special land use permit and it has to be zoned correctly. That zoning is not correct for what you are doing. I am trying to explain to you why you can't do it and I don't know if you are listening or not. Mr. Ukadik indicated he did not have that kind of money. Mayor Jerkins stated I don't know what kind of problem you have but you cannot do that kind of work in that zoning area and you would have to have a special land use permit to have a junk yard. It is not in the proper zoning and you are not allowed to do it. Mr. Ukadik stated he wasn't doing that. Mayor Jerkins stated but Chief Starrett is saying you are. Chief Starrett stated Pat Maxwell has been there for the safety inspection and Jim Graham has been involved with it. Mr. Ukadik stated he had received a ten day letter to remove all the cars. These cars do not have tags on them. Chief Starrett stated the cars have to have proper tags on them. Some of the people bring their cars to be repaired and then I do the mechanical work and then they take it over to someone who does body work. Mayor Jerkins stated to Mr. Ukadik he was having a hard time trying to understand him and he didn't know about the Council but he was. I have tried to explain why you can't do it. You want to argue about it and I have explained it to you. You cannot take cars apart and then send them overseas because it is creating a junk yard. Mr. Ukadik stated he did not take cars apart. Mayor Jerkins stated this is not what we understand because we have been told differently. Chief Starrett stated the vehicles have to have tags on them. Mayor Jerkins stated this correct they do have to have tags on them. Chief Starrett stated our code states a vehicle has to have a current tag on the vehicle. Mr. Ukadik stated let me explain again. If you buy a car right now you have to pay tax on that tag. Mayor Jerkins stated you are creating a car lot that you do not have a license to create. Mr. Ukadik stated, no he didn't have a car lot. Mayor Jerkins stated you said you were buying cars and reselling them. Mr. Ukadik stated no, these are customers coming in to bring their cars. Mayor Jerkins stated so these cars don't belong to you they belong to someone else. Who are the customers? Mr. Ukadik stated they are individual people. People that are dealers and they are the ones with the cars and the cars go all the way to the customs.

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Mr. Thomas stated what Mr. Ukadik stated to me outside before the meeting started was the customer brings him the cars to be repaired and he takes parts on of some cars and puts on the other cars. Mayor Jerkins stated this is creating a junk yard. Mr. Ukadik stated he has the receipts from the different stores where he has bought parts and put on the cars for the customers. Ms. Anderson stated she has a question. If you are getting the parts and shipping them to the customer, then why do you have so many cars on your lot. Because I am a mechanic and the customers bring the vehicles in. Ms. Anderson asked where did the cars come from when you moved. Most of the cars belong to my customers and I have told them to come and get their cars. Mr. Standard asked what the business license was for. Mr. Graham stated it was for a garage and Pat Maxwell went out there and stated it was a junk yard. The garage was light automotive repair and he has a lot of junk cars there, wrecked cars. Mr. Standard stated that doesn't seem like the definition of automotive repair. Mr. Graham stated it seems like a trend people going to auction and finding a car and taking all the parts off of it and draining all the fluids out of the vehicle and shipping the parts overseas. This is considered a junk yard. They have to be in the proper zoning and a special land use permit. We denied the business license on Pat Maxwell's review and the Code Enforcement review based on the operation going on. If it is a garage you can order parts for a car but you cannot take one part off of one car and put on another. You have to order just for that particular car. Mr. Thomas stated customers bring two cars and the he takes off one to put on another. Ms. Causey stated Mr. Ukadik was saying he was getting some of the parts from Sam's. Mr. Standard stated this has been going on for years and we definitely are trying to stop it. We definitely do not want new startups doing this. Ms. Causey asked Mr. Graham about the outside storage and stated we are not to have outside storage isn't that correct. Mr. Graham stated yes, that is correct. Ms. Causey stated we have no outside storage. Mr. Standard stated all this work is done inside. Mr. Graham stated he hasn't actually gone there to look at the location. Ms. Anderson stated there shouldn't be any work done if you are taking in parts and then shipping them out. Ms. Causey asked how are you a mechanic if you are not doing any work. Mr. Ukadik stated well, you come in and we have a space where we do mechanic work to fix the vehicle and when we are finished we bring in another car. Ms. Thomason stated so you are doing two different businesses your shipping business and your garage. But, you have a license for your garage. Mr. Graham stated he doesn't have a business license. Ms. Thomason stated again, he is running two different businesses out of the same place. Ms. Causey stated it is not what Austell needs. Mr. Thomas stated that is what he told me but I feel he doesn't understand what he can do and can't do under light industrial. Mayor Jerkins stated the problem is he doesn't want to understand. Ms. Anderson asked how long you have had your business license. Mayor Jerkins stated he does not have his business license because we have not issued the license. Ms. Anderson asked how long have you been operating there with no license.

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I just started there when the other person went out of business and left I started the business and then I thought I better get a business license. Mr. Standard stated we have had three different representatives from the City to go out there. Mr. Graham stated I haven't been to the site so I can't make a decision. Based on the two representatives from the City that have already been there to the location and they have made their recommendations. Mr. Standard stated this is why we hire the officials and based on their recommendations you shouldn't get a license to do this and I will go with that decision. Ms. Causey stated so would she. Mr. Standard stated my point of view and again we are trying to clean up the businesses that are not doing what you are talking about. To allow a new one to start up it is counterproductive. Mr. Ukadik stated when I came to this country I always want to do the right thing. Mr. Standard stated from what I understand you are trying to do the wrong thing in the wrong area. Mayor Jerkins stated the problem is you should have gotten your business license before you opened up. This is where you made your mistake. Mayor Jerkins stated to Mr. Graham and Chief Starrett to go out and look at the location and make the decision. Mayor Jerkins told Mr. Ukadik apparently, you do not wish to understand what we have been telling you about the rules and regulations of the City of Austell. Thank you for coming and we have to move on now. Would anyone else like to speak to the Mayor and Council.

Mr. Eric Lee stated his name and stated he lived at 1015 Franklin Court in Stonebrook subdivision. The reason I am here we have been experiencing some flooding since we moved in here in 2007. Mayor Jerkins asked are you talking about in 2009. Mr. Lee stated yes that too, but anytime we get a rain like May 19, 2013 just recently. Anytime we get a popup cloud burst storm and what happens and I have some pictures of my home. Mr. Standard asked where this location was. Mayor Jerkins stated it was passed Frog Rock and go out there and turn right and it's that subdivision in Douglas County. Some of it is Cobb and some of it is Douglas County. Mr. Lee stated you can see my property is in the lower bottom at 1015 and the area above me which is water by the railroad tracks at Humphries Hill. You have the block plant and Peco Lane and the envelope company. Ultimately what happens when a power burst storm comes through, all the run off from the area in green drains down and goes down into a culvert located where the star is. The culvert comes underneath the railroad tracks and it comes out into the ditch area at the bottom of the photo I presented. This ditch is located behind my neighbor's property which is the property located above the 10 and the 15 on my photo. Please go to the next page and before the house was built at the bottom of the next page there wasn't a ditch there it was never designed for a ditch. Ultimately what happened as the house was being built and please move to the third page I complained to the builder about some standing water. They hadn't had final grading on the surface or anything on the property, but I was just trying to remedy the flooding on the property before it got any further.

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I went around and staked the property from the side yard all the way around to the street and basically they had graded it down so it would have drained. You can see on the pictures before due to the construction before they put the houses and the benched the lots so they would not be a gradual slope on them. Instead of grading down the yard and I am not sure if it was the builder or the developer that did this. On the next page the back corner what they did was create a ditch from this back corner through my yard to the next person's yard which their house wasn't there at the time to this headwall at the top corner. This pipe is a 36 inch pipe and what this does it is supposed to drain all of the acreage above the railroad tracks through to this point. Before the subdivision was built it was a natural drain and it would come through there and fan out. But with the development they had to pipe it somewhere to the retention basin. So essentially they just dug the ditch out and ultimately what happens on the next page and like I said we moved in on July of 2007 and that was during the 2007 -2008 drought. This picture here roughly August 26, was the first time after a year and 1 month that we had any major pop up storm events. As you can see from the top of the pictures what happens is it bypasses it and the water wants to go to the least point of resistance. So when it can't go in there it goes to my property. Like I said this was August of 2008. I didn't do September 15th through the 21st 2009 which was definitely a problem. This is July 2009 and you can see essentially at the back corner is about twenty inches deep of water in that corner and it fills the entire back yard and the side yard and it runs passed the front of the house and gets into to the garage. Mr. Standard asked if this is a flowing mass of water which is running from behind the quarry. Mayor Jerkins asked Mr. Bowens if he had been out to look at this when the water was out there. Mr. Bowens stated yes, he had been out there when it was raining. Mayor Jerkins asked Mr. Bowens what is your opinion on it. Mr. Bowens stated we have done some research up above there parallel to the railroad tracks. We actually went over and viewed National Envelope and the other company next to it and the old concrete company. There is only one pipe that goes underneath the railroad track and is right there at his location. It seems to me the runoff problem like Eric was saying the development on the other side of the tracks along with whatever is falling on his side of the tracks falling down to one corner and actually trying to get into that wall. I went over there and we actually took some equipment over there and used it to try and keep the water diverted into the ditch line. There needs to be more work done over there because he does have a river coming into his backyard. The developer has since gone out of business. Mayor Jerkins stated he was broke and I guess the bank took over. Mr. Bowens stated, yes, they did. Mr. Lee stated he looked on the PVA record in Cobb County and it says Land Investment Properties are the ones who own all of the development now. Mayor Jerkins asked if we had issued any building permits lately over there. Mr. Graham stated no not lately. Mayor Jerkins stated we do not need to issue anymore until we get this solved.

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Mr. Graham stated we haven't accepted the subdivision yet because it is still being built up. We can go over there and do the work and keep up with the cost on it and put an impact fee on any lot that would be sold so we could get our money back. Whatever we have to do on this gentleman's property it is totally legal, and we can put an impact fee on it. Mayor Jerkins stated I don't know what we can do if it's not big enough to go under the railroad track without putting another pipe under it and then where will you run it. I need to go over there with you and look at it and see what we can figure out. Mr. Bowens stated to the Mayor he really did need to go see it because Mr. Lee has had this problem for quite some time. Mayor Jerkins stated be sure and do not issue any more building permits because we need to solve this problem before anything else is built. Mayor Jerkins told Mr. Lee he would definitely be over with Mr. Bowens and look at it and see what could be done. I will stop the building until we can get something done. Ms. Anderson stated she has noticed this because she has ridden through the subdivision and noticed that particular yard. Mayor Jerkins told Mr. Lee he would get in touch with him tomorrow.

Mayor Jerkins asked if anyone else would like to speak to the Mayor and Council. Ms. Christina Smith stated her name and stated she guessed technically she was still the owner of 28 Sanders Drive. She stated she had to evacuate the house during the flood of 2009. The house is unlivable and unfortunately there is nothing I can do about it. I can't afford to maintain it. I didn't really have help going cleaning it up. It has my furniture in it before the flood, beds, dressers, couches, all of that I had no help in trying to get anything out. I left with basically what I put in my car. I am self employed and I wish there was something I could do, but the property is not sellable. I have contacted the mortgage company after the flood and I did not have flood insurance. I could not afford it. I contend after the flood they did take an interest in the property because they sent an appraiser out. The winter after the flood someone paid someone to winterize the plumbing and also changed the locks so I can't get into the house anymore even if I wanted too. The first summer after the flood in 2010 someone was mowing the lawn every week. It was not me. I have not paid taxes on the house to the City of Austell or the County. If the property had some value even to sell for the land but it doesn't. The mortgage company is not pursuing an interest and they don't want the property and if they are not willing to give me the title so I can donate it to the City. To be torn down and turned into a playground for the children in the neighborhood because that is about the only use for it. As I said I am self employed and I make just enough to pay my living expenses and I can't afford to do anything with it. I wish I had an answer. I guess now to ask the question is if you had not been able to find me what you would have done with the property? Mayor Jerkins stated we can contact the bank. Chief Starrett thanked Ms. Smith for coming and commented the Council thanks you for coming. We have contacted the CitiMortgage and in the past they have sent someone out to cut grass.

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They have told us they have no further interest in the property. Mr. Kimbrough asked if the bank had foreclosed on the property. Ms. Smith stated no, they haven't they actually sent a letter after being contacted by Code Enforcement Officer Appleby. I then contacted CitiMortgage and said o.k. great you are not going to pursue any interest will you give me the title so I can at least dispose of it. They stated on no we are not going to do that. Mayor Jerkins asked if we have the banking information. Chief Starrett stated, yes we do. My suggestion would be to get Mr. Kimbrough to write a letter. Ms. Smith stated I strongly suggest if anyone goes out there, the front door and the side are locked and the back door has been broken in to and people have gone in and stripped wiring and anything of value. Neighborhood kids were going in the house to play. It is a health hazard. Mr. Standard asked if the bank had foreclosed on the house. Ms. Smith stated no they have not foreclosed on the house. Mr. Kimbrough stated this is confusing. Ms. Smith stated she had contacted an attorney and they put me in touch with some real estate attorneys. I even went to the Board referral and I spoke with about four different attorneys on the phone and explained the situation. These are real estate attorneys and they don't know how to help me. Mayor Jerkins stated it is a difficult thing. We have the information so Mr. Kimbrough will handle it now. Mr. Kimbrough will send a letter stating the house is unhealthy and dangerous and we will hold them responsible for it if they don't do something about it. The house has mold in it and be sure and list everything. The City would be willing to tear down if they are willing to give up the mortgage on it. Ms. Smith stated the mortgage company will probably refer you to me homeowner of record. Mayor Jerkins stated we have to get a release from the bank before we can do anything and this is what Mr. Kimbrough will do. Mr. Kimbrough asked Ms. Smith if we had her information. She stated yes, you do. Ms. Smith stated like I said when the house was flooded I had three days after the flood and the house was so badly infested that I could not go into it. I had no help to get anything out of the house. The house is still loaded with garbage at this point. Mr. Standard asked if she wanted anything in the house. Ms. Smith stated no she did not. Mr. Standard stated as far as your end I wouldn't worry about it too much. Ms. Smith stated she hasn't been but I was concerned about coming tonight and speaking with the Mayor and Council. Ms. Smith stated whatever will happen will happen. I have continued my life and gone on. At this point the house is a total tear-down. My understanding is the zoning has changed and you can't even rebuild now. Mayor Jerkins stated we are willing to tear it down for the property. My property and the one next door and it is my understanding was when the community was built back in the early fifties it should have been made into a playground for kids. It is the two largest lots in the whole neighborhood and it is almost an acre and a quarter is my lot. But, at this point this is all I can say and all I can do. Mayor Jerkins stated we appreciate you coming to the meeting and we will try to get this resolved. Mr. Kimbrough stated hopefully all we need is your signature.

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**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mayor Jerkins stated the gas prices have stayed about the same. We conducted normal business at the meeting.

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

A. Financial Report

B. 2013 – 2014 Preliminary Budget – (1st Reading)

Mayor Jerkins stated we have to have a Public Hearing and I will turn this over to Mr. Kimbrough, City Attorney.

Mr. Kimbrough stated at this time we call for a Public Hearing for the first reading of the 2013 – 2014 Preliminary Budget for the City of Austell. The budget has been made available and all Council members have this before them. Are there questions in reference to the 2013 – 2014 Preliminary Budget. Having heard none we need to make a motion to close the hearing for the first reading.

Ms. Anderson moved to follow the recommendation of Mr. Kimbrough to close the Public Hearing for the 2013 -2014 Preliminary Budget. Seconded by Ms. Causey. Motion passed (5-0).

**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

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C. 2741 Veterans Memorial Highway – Code Violation

Mayor Jerkins stated we discussed this earlier and I think the decision was to try and make him pay his property taxes. Ms. Causey asked do we want to do anything to the building. Mayor Jerkins stated let's try and see what he does with the taxes first. We don't need to go over there and work on it until we see if he will pay the taxes. Mayor Jerkins asked Mr. Kimbrough if was going to work on this and he stated yes he would. Mr. Standard asked do we need to let him know we may propose to remove all that old wood from the front and having a lien put on it for the cost of it. We need to do that eventually. Mayor Jerkins stated if we can get the taxes taken care of and then we will do that.

D. 2080 Sanders Drive – Code Violation

Mayor Jerkins stated Ms. Smith spoke earlier on this matter.

10. FIRE DEPARTMENT

SCOTT THOMAS, CHAIRPERSON

Jim Graham, Director

A. Fire Report

11. PUBLIC WORKS DEPARTMENT

KIRSTEN ANDERSON, CHAIRPERSON

Randy Bowens, Director

A. Perkerson Mill Road Resurfacing

Ms. Anderson stated we would like to approve the Perkerson Mill Road resurfacing project that is piggybacking off of Cobb County's project from Austell Road to Jones Road. We will continue the project within the City limits.

Ms. Anderson moved to follow the recommendation of the Public Works Committee to approve the acceptance of the Perkerson Mill Road resurfacing project to be paid in an estimated amount of \$115,000.00 and will come from the Special Purpose Local Option Tax. Seconded by Mr. Thomas. Motion passed (5-0).

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

A. Parks Equipment Purchase

Mr. Thomas stated the Parks Committee recommends approval to purchase a new bush hog tractor at this time for an amount not to exceed \$12,990.00 to be paid for using SPLOST funds.

The Parks Department solicited multiple estimates to replace a tractor that has become inoperable. The bids are as follows:

- Cobb County Tractor
New Holland Boomer 30 4wd ROP's Tractor
\$17,279.42

- Franklin Tractor
New Holland Boomer 30 4wd ROPS Tractor
\$14,602.00

- Kioti CK27 4wd ROPS Tractor
\$12,990.00

After comparing the cost estimates from all the companies, the Parks Committee recommends approval of purchasing the equipment from Franklin Tractor.

The tractor is a vital piece of equipment due to the high volume of grass cutting done by the Parks Department.

Mr. Thomas moved to follow the recommendation of the Parks Committee to approve the estimate from Franklin Tractor. Seconded by Ms. Causey. Motion passed (5-0).

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

A. No Report

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14. ATTORNEY, DUPREE & KIMBROUGH

A. No Report

15. MAYOR'S REPORT

A. CMA MEETING

JUNE 11, 2013

TIME:

6:30 P.M.

LOCATION:

Hosted by Marietta @ Cobb Chamber

B. Proclamation – Girl Scouts of America

16. ADJOURN

Mr. Standard moved to follow the recommendation of Mayor Jerkins to adjourn the meeting. Seconded by Ms. Causey. Motion passed (5-0).