

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, JULY 12, 2010**

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

Absent: Chief Bob Starrett

The regular meeting of the Mayor and City Council was held on Monday, July 12, 2010 at 7:00 P.M. at the City Hall.

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

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Pastor Bob Neal 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. No one did.

Mayor Jerkins presented a ten year plaque to Erik Attaway and Tommy "Bo" Garrison and thanked both for their years of service and hard work. Mr. Standard presented Mr. Attaway and Mr. Garrison a ten year pin. Mayor Jerkins and Mr. Standard presented Sam Locklear with a five year pin and thanked him for his years of service and his 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 \$1,237.50
- C. Approve Minutes of Regular Council Meeting June 7, 2010

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

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5. CITIZENS REPORT

Mayor Jerkins asked if anyone would like to speak to the Mayor and Council. No one spoke.

**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mr. Scott Kimbrough, City Attorney, stated The Powder Springs Franchise Agreement has been prepared and reviewed but hasn't been signed. We need permission from the Council to approve Mayor Jerkins to sign the agreement.

Mr. Standard moved to follow the recommendation for Mayor Jerkins to sign the Powder Springs Franchise Agreement. Seconded by Mr. Thomas. Motion passed (6-0).

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

- A. Financial Report
- B. 2010 Millage Rate

Ms. Reagan stated the Finance Department recommends the Millage Rate be set at 3.123 same as last year and the hearing will be held on July 26, 2010 at 6:00 P.M.

Ms. Reagan moved to follow the recommendation of Mayor Jerkins to approve and accept the Millage Rate at 3.123. Seconded by Mr. Thomas. Motion passed (6-0).

- C. 2009-2010 Budget Amendment

Ms. Reagan stated this item is the 2009-2010 Budget Amendments and at this time I would like to turn this over to our Finance Director, Denise Soesbee.

Ms. Soesbee stated to comply with the State Law, the City is required to make budget amendments so there are no deficits in any department at fiscal year end. The attached budget revisions reflect the actual 2009-10 actual activity. (Please see attached Budget Revision Sheets.)

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D. Surplus Office Equipment

Ms. Reagan stated we presented this list of information at pre-agenda for the Finance Department to surplus.

Ms. Reagan moved to follow the recommendation of the Finance Department to surplus the attached office equipment. (Please see attached List.) Seconded by Mr. Thomas. Motion passed (6-0).

8. GENERAL ADMINISTRATION

KIRSTEN ANDERSON, CHAIRPERSON

Carolyn Duncan, Director

A. Health Insurance Renewal

Ms. Anderson stated our health insurance is renewed annually, and the General Administration Committee met on June 30th to consider the renewal information presented by our broker, Chip Boyd, with Heritage Corporate Benefits.

As you are aware, insurance companies have increased premiums across the board, and it is no different with our renewal. Because we have generally been satisfied with Blue Cross, we recommend maintaining our relationship with them. However, their proposal increase was approximately 30% and we are not able to absorb that in our projected 2010-2011 budget.

In order to bring the increase into a suitable premium range, it is necessary to modify the health care plans. In order to bring the increase down to 16.4%, we recommend raising the deductible to \$500 for POS and \$1000 for HMO. We also recommend purchasing a Confinement Policy that would reimburse employees for 100% of the deductible.

The Committee believes renewing with Blue Cross & Blue Shield with the increased deductible and the Confinement Policy component will best serve the employees of the City of Austell.

Open Enrollment meetings will be held on July 19th and 20th to explain the new benefits to all of our employees.

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Ms. Anderson moved to follow the recommendation of the General Administration Committee to accept the renewal with Blue Cross Blue Shield. Seconded by Ms. Reagan. Motion passed (6-0).

B. Existing Insurance Policies

Ms. Anderson stated for many years the City has allowed insurance premiums to be deducted from employee's paychecks as a courtesy to them.

We are rethinking this procedure due to the amount of paperwork and employee time to post and pay these bills. Attached is a list of the insurance companies we have been deducting for and the number of employees who are served.

We are trying to streamline our insurance program and it is not cost effective to continue making deductions for so few policyholders. Therefore, the Committee recommends advising the employees affected and the insurance companies that those policies will have to be paid by the employee directly.

Ms. Anderson moved to follow the recommendation of the General Administration Committee to approve elimination of the payroll deductions for the older Insurance policies that are no longer offered. Seconded by Mr. Thomas. Motion passed (6-0). (Please see attached Sheet.)

9. POLICE DEPARTMENT

VIRGINIA REAGAN, CHAIRPERSON

Bob Starrett, Police Chief

- A. Police Report
- B. Code Enforcement Report

10. FIRE DEPARTMENT

SCOTT THOMAS, CHAIRPERSON

Tim Williams, Fire Chief

- A. Fire Report

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B. Unsafe Building Update

Mr. Thomas stated he would like to turn this over to Chief Williams. (Please see attached sheets) Chief Williams stated on the Brooks Drive property there is no actual information on when the buy backs will take place. This is still on hold. The Mulberry Street property as well as the Pine Street property, both homeowners have been issued citations and will be heard in Municipal Court in August. Regarding the Rockhill Street property, Mrs. Rita Otts and her son Joshua were asked to come back tonight with a plan of action. Joshua called this afternoon and advised they would not be renovating the property. They would be demolishing the property. I told him that was fine and he would need to purchase a permit and I explained this to him. I also explained to him this would not need to drag out for a long period of time. He offered the property to us for a training burn. I do not think this is possible but I will look into this and advise him if this is possible. I will give you an update next month as to where we are. I advised him to go ahead and buy the permit. He said he would do so.

C. Fire Training Facility Upgrade/Information Only

Mr. Thomas stated this was discussed at pre-agenda meeting. Chief Williams stated we are well under way on this and both containers have been delivered. Mr. Garrison has helped us with the facility as far as getting some gravel laid in place. It is looking real good and we have cleared out some trees and Jim Graham's department has helped as well. The welding is currently being done by Metropolitan Metal Manufacturers and will be fitting the facility with a live fire box.

11. PUBLIC WORKS DEPARTMENT

MARTIN STANDARD, CHAIRPERSON

Randy Bowens, Director

A. Revised Stormwater Utility – 2nd Public Hearing

Mr. Standard moved to follow the recommendation of the Public Works Committee to adopt the revised Stormwater Utility Rates ordinance as presented: (Please see attached sheets) Seconded by Mr. Thomas. Motion passed (6-0).

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B. C & S Chemical, Inc. Enforcement Action

Mr. Martin stated C&S Chemical Inc. is discharging industrial process wastewater and polluted stormwater runoff into the City's storm sewer system and Sweetwater Creek, and has done so for many years. The pollutants (low pH, elevated aluminum and sulfate) released by C&S Chemicals are known to impact human health and stream biota. Despite a long history of environmental problems, C&S has taken no action to address the problem.

The City of Austell is required to eliminate illicit discharges to its storm sewer system or face possible enforcement by EPD for violating the City's NPDES MS4 Permit. The City has collected certified data at two outfalls showing illegal discharges of pollutants from C&S is occurring both during wet and dry weather. Eight citations have been issued to date for \$1,000 each per the City's Illicit Discharge Detection and Elimination Ordinance. C&S is appealing the citations. Data exists to issue up to 30 more citations and to cut off water supply due to the on-going violation of the City's Sewer Use Ordinance.

The City has met with C&S several times to discuss the problem but no action has yet been taken by the facility. C&S contends that the City is causing the problem due to excess runoff from Jefferson Street onto their property during rain events. Note that a minimal amount of clean water may be entering their site during heavy rainfall as is allowed. The problem is that poor housekeeping, a significantly damaged pipe due to acid from their site causes this minor amount of water to be contaminated. It is C&S's responsibility to keep the run-off from occurring and to ensure no polluted stormwater runoff or industrial waste leaves their site. C&S is considering closing the site and moving operations to Africa.

C&S Chemical is also required to eliminate both sources of pollution or face enforcement action by EPD. Action has been promised by EPD if they receive a written request from the City to move forward.

The Staff recommendation is to request that EPD take enforcement actions against C&S for violations under the Clean Water Act (contamination of surface water) and Resource Conservation and Recovery Act (contamination of groundwater.)

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Continue outfall monitoring and issue citations for any violations that occur. This includes instances of past violations (approximately 30 in the past six months.) Note the City has expended considerable expense monitoring the outfalls to date and evaluating the legal issues associated with this site.

C&S promised to deliver a “functional” plan to the City by Friday, July 16, 2010 on how they would address the contamination problem. Should the promised plan not be delivered or not be comprehensive enough that it shows a good faith effort, the City should cut off the water as permitted under the Sewer Use Ordinance and continue monitoring to see if the discharge of pollutants to the outfalls is reduced as pollutant sources are reduced.

Mr. Kimbrough stated this is not a Public Hearing for this matter just an update for the Council as to what has been going on. We did meet with the individuals here and Mr. Kimbrough asked each one to introduce themselves.

Ms. Barbara Gallo introduced herself as the Attorney for C&S Chemicals. Mr. Rob Chandler introduced himself as the President of C&S Chemicals. Mr. Mark Ryckman, Remtek Engineering. Mr. Kimbrough stated we all met with Duane Demeritt and Randy Bowens last week to discuss this issue. The citations were issued through the ordinance and I think we discussed that the hearing was on the 29th. However, it is on the 22nd because the Judge will be out of town on the 29th. There are also notices of violations for this activity and the City has hired Catherine Fox as an independent consultant. She is the one responsible for going out and gathering this data that allowed us to issue these citations. Obviously, they are contesting the citations and notice of the violations. This was another reason we had the meeting to decide where to go from here and what would benefit everyone involved and the best way to go about doing this. We discussed this at the meeting last week. They are going to deliver to us on Friday a plan on how to mitigate the illicit discharges that are coming from this property. We told them this at the meeting last week we still have the ability to enforce financial penalties and other penalties such as turning the water off. They know full well we have that ability to do it. We are all moving forward hopefully in good faith and working together to resolve this problem. As you all know the City of Austell is responsible to the Environmental Protection Agency of the Federal government to control our discharges that comes through our stormwater system.

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This is why this has been such an important matter to the City of Austell to address this with C&S Chemical and other commercial and individuals who have illicit discharges coming from their property. The City can be charged with a lot of fines from the EPA if we don't do our part. Now we will toss the ball back to C&S Chemicals court and see if they will do their part with this functional plan. We talked a little bit about it and it will take time to put that plan in place, but they will present that to us on Friday and we will know better where to go from here.

This was originally set for an appeal hearing. They have appealed in notice of violation that was issued by the City. This was originally set for an appeal hearing tonight. It was actually first set in June for that Council meeting. We still have the ability to put the hearing back on for the August meeting if we need to. Mr. Kimbrough asked if anyone had any questions. Ms. Gallo asked if she could speak. Mr. Kimbrough stated, yes. Ms. Gallo stated in order to make the necessary improvements to our property it will cost a considerable amount of money on behalf of the City to maintain and make some sewer upgrades. I would like to throw out one possible alternative. Rather than the City expending the money to make the necessary upgrades and C&S Chemical spending the money we would offer to sell the property to the City under Brownfield Program transaction which would allow the City to acquire the property without any liability to the State or to third parties and no legal liabilities for any ground water issues that might exist at the site. I will simply throw this out for your consideration. If this is something that would be more preferable to the City, rather than us trying to make the improvements or for the City to make the improvements on the sewer system and we think this an alternative. Mr. Kimbrough thanked Ms. Gallo and stated he appreciated this and this is the first time I have heard of this and anytime property is discussed it has to be heard in Executive Session. It is probably too early for that since it has just been discussed. It would be appropriate to discuss at pre-agenda 2 weeks from tonight as well as the other things going on with C&S. Mr. Kimbrough asked if anyone had any questions. Ms. Anderson stated on the proposed Staff recommendations are we going to vote on these. Mr. Kimbrough stated, no, not tonight. It is not up for a vote tonight.

Ms. Catherine Fox stated she was continuing to measure the pollution coming from the site from two outfalls. I am focusing my efforts on dry weather.

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No water at all coming on to the site on Jefferson. I am still continuing to measure pollution. It is very little acid and it would not be good and you can't touch it. I used to work at EPA for fifteen years and I was in the Brownfield program.

Mr. Chandler stated they would make the presentation or do you want us to provide you the material first before the presentation. Mr. Kimbrough asked Mr. Demeritt if they were not submitting five copies to him. Mr. Demeritt stated they were to submit the copies for our review before the presentation. Mr. Chandler asked before those copies go out to your engineer would it be possible to have a meeting? If this is the governing body that is going to hear the notice of violations before you send anything to the engineers to take a look at the proposal and have some of the executive members sit in instead of the staff members. Especially, you, Mr. Mayor if you could sit in on one of these meetings with us so we could get your feedback. I am just trying to speed things up and if we make a submittal and send to the engineers and it comes back from the engineers then you have to take a look at it and then we hear your comments. If we could get the decisions makers in a room and talk about what options we have at the site I think this would be beneficial to everyone. Mr. Kimbrough asked would that be better going to the engineers first or prior to the engineers. We will try to hurry the engineers during the process. It is in everyone's best interest to get this resolved as soon as possible. Mr. Chandler asked if the meeting was set up for the 16th. Mr. Kimbrough stated no, they will submit the proposal on the 16th and it will immediately go to the engineers and hopefully they will review it quickly and then maybe we can have a meeting in the middle of next week. Ms. Gallo stated that Mr. Chandler's concerns were continuing violations. Mr. Kimbrough stated he understood. Ms. Gallo stated we have a disagreement whether this is originating from the stormwater even though there has been no rain. We think that even in dry periods we think it is stormwater that has been residing in the pipes. Mr. Kimbrough stated if there are continuing violations cited you certainly have the right to present that defense in City Court and at the Appeal Hearing.

- C. Pins/Years of Service – Eric Attaway
Tommy "Bo" Garrison
Sam Locklear

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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. No Report

14. CITY ATTORNEY – DUPREE & KIMBROUGH

A. No Report

15. MAYOR'S REPORT

A. CMA MEETING

NO MEETING
SUMMER BREAK

16. ADJOURN

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