

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010**

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

The regular meeting of the Mayor and City Council was held on Monday, August 2, 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; Bob Starrett, Police Chief; Tim Williams, Fire Chief.

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Reverend Brett DeHart 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 O.J. Pearson with a ten year plaque and pin and thanked him for his years of service and his dedication to the City of Austell.

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 \$1,477.00
- C. Approve Minutes of Regular Council Meeting July 12, 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

5. CITIZENS REPORT

Mayor Jerkins asked if anyone would like to speak to the Mayor and Council. Katrina Dudley introduced herself to everyone. She stated she was a business owner in Sweetwater Village. She stated she was here tonight on behalf of the merchants of that plaza to request assistance from the City of Austell to help us promote a Community Appreciation Day. This would be for the residents that were supportive of our businesses during the flood and at present since the flood. We would like to do this for our citizens and have activities, games and special offers from the merchants. We are asking for your help to provide us with extra help to make that day a success.

Mayor Jerkins stated he was sorry but the plaza is in Douglas County even though it has an Austell address it is not in the city limits of Austell. It stops at the Chevron Station. You would have to go to Douglas County. We don't mind trying to help you but we don't normally try to help when they are in another county because Douglas County might get upset with us. Mr. Thomas stated we did assist everyone during the flood. Ms. Dudley thanked the Mayor and Council for their time.

Ms. Juanita Crowder stated her name and stated she had a few questions to ask. She stated she would like to know about the update on the cost analysis for the flooded homes that were in Tier II. Also, the buyout program and where they are on that program. Mayor Jerkins stated there will probably not be anymore buyouts. Mayor Jerkins stated I doubt if they qualify unless they change something. They are talking about changing the map and the height of the elevation. If they do it is possible they might change it then. Mayor Jerkins asked Mr. Bowens if this was correct. Mr. Bowens stated currently we have a letter in to GEMA and that letter is requesting a re-study of Sweetwater Creek. The letter indicated asking GEMA to ask FEMA to take the data that was actually submitted from the re-study as best available data and what we are doing now is waiting on a response back from GEMA to FEMA back to us. Then if they agree with the best available data then there will be no need for a buyout program announcement and this is what we are waiting on right now for them to make that determination. Some buyout programs have been done for certain structures throughout the city and which none of those which actually came up to the 1.0 that is required to be qualified. So, we are hoping this new data, and once FEMA decides to accept as best available data will eliminate the analysis being done. That will capture some additional points to be submitted at a later date. Ms. Crowder stated, with that being said, the last update was May 15, on the website regarding the flood.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 3**

So, will there be another update that will be put on there or another meeting? According to the website there would be a meeting with FEMA and GEMA, City of Austell and the County that would actually discuss the process. This meeting was supposed to be back in May. After that meeting it was stated there would possibly be a meeting for the homeowners at the latter part of June. Now, we are in August and there have not been any updates on the website, any phone calls, e-mails or letters. When will this take place to contact the citizens that there are no more homes in the buyout program? Mr. Bowens stated, at this point we are still waiting on GEMA and FEMA to respond back to our letter. Actually, Congressman David Scott has that information and is pushing that also on the best available data. This is something that has to be done by FEMA and what will be instrumental in making that determination will be the contractors that actually bid the restudy if they have completed all the data and sent to FEMA and not omitting any data such as hydraulic study or any flow calculations. Once they receive all that they will look this over and we are waiting day by day to hear back from them. Until we do get that determination back from FEMA we do not plan to have any meetings or give any information until we hear from FEMA and have something concrete that we can pass along to the homeowners. Ms. Crowder stated she understood that but at least just say we are waiting on to hear back from GEMA or FEMA just to let people know what is going on. I think if you just put on the website that you have been in contact with FEMA and waiting for their response. This would be something to inform the people opposed to not having any response whatsoever. Mr. Bowens stated to Ms. Crowder she was absolutely correct but some of the flood victims do not have access to a computer. If anyone would like an update they can call our office and we would be glad to speak with them and give them all the information we have. Ms. Crowder stated she had called and had not received a return call from anyone. But, a lot of us do have computers. Some people do prefer a phone call but some of us do prefer a computer. So, something on the website would be helpful. It really looks bad to not have anything on the website. This would keep the citizens abreast of what is going on.

Mayor Jerkins asked if anyone else would like to speak to the Council tonight. Ms. Ann Turner stated her name and stated she lived at 5450 Austell-Powder Springs Road where the orange mailbox is. Ms. Turner stated she had heard from a couple of sources that Carastar had created a lot of the problems for those of us that are downstream by building that closed garbage dump. I really don't know what else to call it. I thought this was just talk. The creek was there, where it is now and that closed refuse pile was on existing land that had been marsh or part of the creek. Am I wrong?

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 4**

Mayor Jerkins stated no, they did not fill in any of the creek and it would not have made any difference anyway. I really don't think the little amount of dirt that was put there would make a difference. Because of the amount of water that was coming through there. It would not have mattered. It did flood seventeen counties. People have to understand that twenty-one inches of rain did the flooding and nothing else. Ms. Turner stated that is what she thought. Mayor Jerkins stated Nashville got thirteen inches and a billion and half worth of damages. If they had received twenty-one inches no telling what the damages would have been. We did get seventeen inches in 2005 and we got by pretty good then but when we got twenty-one inches we could not handle it. Ms. Turner stated it would not have been as bad if it had been just in Austell. Mayor Jerkins stated that's right it was the whole area. In seventeen counties it's hard to blame Austell. Ms. Turner stated there is another question that has been raised. The water receded very rapidly once it got through Austell and did its damage it went away fairly rapidly. Was there a dam open on the Chattahoochee or is there a dam or maybe some way we could get it out faster. Mayor Jerkins stated a tunnel would be the answer. Ms. Turner asked well, they are not listening to you, are they? Mayor Jerkins stated, yes, they are listening but something like this takes a long time. I had a conference call with about five different groups. It was the Corp. of Engineers, EPD and some more that was involved. They finally agreed they would come and there is a group they have to put together called the Silver Jackets. They will come and meet with us and we will study it and see what size tunnel it would take to make sure it would work. This would be all I need from them to help me put something together to show what size it would take and it would work. Then I would take it from there. I would then start dealing with the funds which would be two hundred million. If we get something put together and I don't know, they said they would although they didn't want to do it. I finally got them to agree and come and do it. I felt like we could get Douglas, Cobb, Powder Springs, Austell, Federal Government and the State and get what we could out of the Federal and then get what we could out of the State then the cities and counties could put something in it. The remainder we could all go in together and do a bond. This is my idea of raising the money. They will have to come out and help me decide what size tunnel we need and to make sure it will work. The only concern I have is enough fall because you have to go about a hundred and something feet deep to go underground. So, we have to have that much fall at the other end at least six miles from here. Ms. Turner asked six miles down creek? Mayor Jerkins stated where it comes out because it cannot come out below the ground. You have to come out and hit Sweetwater again. It doesn't flood below Jacks Branch which is Factory Shoals.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 5**

It falls so quick it doesn't flood and it runs straight into the Chattahoochee and it doesn't flood once it reaches the Chattahoochee. There is no dam holding it back because it is trying to wind and go through Austell and its flat and it only has a foot or a foot and a half of fall per mile. When it gets down in that area it drops off fast. It might have twenty or thirty feet per mile when it reaches there. My concern has been to have enough fall where this tunnel comes out and to have enough fall where it hits Sweetwater again. Ms. Turner thanked Mayor Jerkins.

Chief Starrett asked if Mayor and Council would hear the Work Permit for Keith Oaks now. Mayor Jerkins stated, yes they would.

Mr. Keith Oak stated his name and stated he was trying to get a work permit. He stated he did not know the formalities of a work permit. I do know that I was denied the permit and I am a previous felon and every single job I try to get I am denied for the same exact reason. It has been several years and the reason I took this so far by writing a letter is because I am trying to get a job to be a bar back. I am not trying to become something huge, but I just want something so I can keep the roof over my head so I can pay for my truck. I feel in my search recently that society keeps felons down. I have turned a new leaf and I am sure you have heard that a billion times and from a billion other people. But, maybe this is one case that it actually did happen. At some point people can make a decision to change. I know a lot of people don't, but some people do. I wrote a very detailed letter to the Chief. Mayor Jerkins stated here is what we have to do. We have your record and are you o.k. with us discussing your record publicly? Mr. Oak stated, yes, he was. Mr. Kimbrough stated the criminal record we have that the Chief ran states Mr. Oaks criminal record. Mr. Kimbrough stated to Mr. Oak you are applying for a work permit to work at Fat Cats. Mr. Oak stated, yes that is correct. I don't want to work at Burger King the rest of my life. Mr. Oak stated the owner of Fat Cats has recently passed away and his brother has taken over the establishment. I am familiar with both of them and I used to work at Bay Breeze Restaurant. At night we would go out to the Waffle House, IHOP and Fat Cats and they would give us free food and sometimes we would get free pool. We became regulars there and I got to know them. Mr. Kimbrough asked Mr. Oak so you have applied there to be a bar back. Your criminal record and the history that we ran on you showed two different arrests one in 2003 for purchase possession; manufacturing; distribution and sell of marijuana. Mr. Kimbrough asked is this correct? Mr. Oak stated, yes it was correct. That was a date of January 9, 2003. That resulted in a conviction. Was that a plea or a trial? Mr. Oak stated it was a plea. Mr. Kimbrough asked Mr. Oak if he was still on probation or under a sentence for that. Mr. Oak stated no sir.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 6**

Then the second arrest was a 2004 arrest date on November 28, 2004. The charge was manufacturing, selling, dispensing and distributing drugs and it doesn't say exactly which type of narcotic it was for. That shows it was dismissed on January 25, 2008. Mr. Kimbrough asked Mr. Oak if this was him. Mr. Oak stated no, it was not him he was not aware of this. Mr. Kimbrough stated it has Heath Adam Oak and he asked Mr. Oak if this was his full name. Mr. Oak stated yes sir, it is my name. Mr. Kimbrough asked Mr. Oak if he was arrested on November 28, 2004 for additional drug charges. Mr. Oak stated no, sir I was not because I would have violated my probation. I assume that is why it is dismissed. Mr. Kimbrough stated the third thing is a violation of probation which was December 1, 2004. That of course is three or four days after the arrest on November 28, 2004. Mr. Kimbrough asked Mr. Oak if he ever violated his probation. Mr. Oak stated, no sir, I have never violated my probation. Mr. Kimbrough stated it shows under that violation of probation that on February 2, 2005 there was a guilty plea of violating your probation for felony VGCSA which is Violation Georgia Control Substances Act. Mr. Kimbrough stated so you are saying those two things, the arrest on November 28, 2004 and the subsequent violation of probation was not you. Mr. Oak stated, yes, that is what I am saying. Mr. Oak asked Mr. Kimbrough if there was any more information on the February 2, 2005 VGCSA violation. Mr. Kimbrough stated that was just the probation violation issue. Mr. Oak asked if there was one after that. Mr. Kimbrough stated no sir, not on this history. Mr. Oak stated would it be correct in saying and what I am getting at is all I am aware of is two felonies. There were two separate incidents where I went to jail and they were both drug related. Obviously, in 2003 I went to Fed-X and picked up a box which was full of marijuana. I was aware it was full of marijuana but the money was worth it at the time. I should not have done that and I will never do it again. As far as 2004 goes I did get in a bad situation at a road block in Blue Ridge, GA. Mr. Oak asked Mr. Kimbrough if it said Fannin County. Mr. Kimbrough stated it said Blue Ridge State Patrol. Mr. Oak stated this was the second time I got into trouble. What happened there is I got into a road block and I had a small amount of meth amphetamine on me and I swallowed it. The officer saw me swallow it and I was arrested. The Judge did tell me he would not violate my probation. Blue Ridge then transferred me down to Cobb County. I stood in front of Franklin Cox and he told me he would not violate my probation. I did receive a sentence and I served my entire sentence. Mr. Kimbrough asked are you still receiving a sentence for that? Mr. Oak stated, yes, Sir I am still under a sentence for that, but I am in good standing with my Probation Officer and I have paid all of my fines, my Attorney's fees and everything they have asked me to do. I have completed everything several years early and I will be off of probation in 2012.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 7**

Mr. Kimbrough asked Mr. Oak if there had been any arrests or incidents since the Blue Ridge arrest. Mr. Oak stated, no. Mayor Jerkins asked Mr. Oak how long he had to serve and how long was your probation. Mr. Oak stated from 2004 to 2012, sir. Mayor Jerkins stated I am talking about how long where you in jail. Mr. Oak stated it was six months and it was in a PDC. It was a Probation Detention Center it was like a military boot camp. Mayor Jerkins asked Mr. Oak if he had learned anything. Mr. Oak stated, yes, sir I have learned an unspeakable amount, sir. It seems every day I wish I had not been such an idiot. Mayor Jerkins stated I think at some point you will change but my concern is do you think you are through with all that mess. Mr. Oak stated yes, sir I know I am through with all that mess. They scared me straight. And that is two strikes by the way. I am not good on math and but I don't want to do the math on that equation. Mr. Kimbrough asked Chief Starrett if the City had a look back on these work permits. Chief Starrett stated yes we do. Mr. Kimbrough stated so we should be looking back to 2000 and he said two arrests and he is still on felony arrest and drug charges and under sentence for one. Just so everyone is clear. Chief Starrett asked if Mr. Oak's probation officer would allow him to work where they sell alcohol. Mr. Oak stated he hadn't asked him. Mayor Jerkins stated you might want to check on that too. Mr. Oak stated he didn't have to report so he would have to call him. Mayor Jerkins asked so you are not on report for probation anymore. Mr. Oak stated, no sir. Mayor Jerkins stated in most cases they do not want you around it. Mr. Kimbrough stated in most cases when we have had this before the sentence is finished and they are no longer under sentence and we would certainly need to know that and so would you before anything could go forward here. Mr. Kimbrough asked Mr. Oak if he could find that out and come back next month. Chief Starrett asked is there any way they could make a decision now on this because if they deny it he would be wasting his time. Mr. Kimbrough stated I still think it would be good to find that out and search for other jobs as well. Mr. Green stated if his probation officer could send us a letter on it. Mayor Jerkins asked Mr. Kimbrough so you are saying he is out from under probation. Mr. Kimbrough stated no, he is under probation and he is still serving his sentence until 2012. Mayor Jerkins stated so, all we want to know is if the probation officer will let him work where they serve alcohol. Mr. Kimbrough stated, yes that's right. Ms. Anderson asked Mr. Oak how many days are you planning to work at Fat Cats how many hours. Mr. Oak stated whatever he could give me. I would assume he would start me at the bottom of the food chain to see what my work ethic would be like. Hopefully, he would move me up when people dropped out or whatever. I plan on staying there a good while because it's been incredible hard to find a job. There are \$10.99 jobs around every corner for me.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 8**

Ms. Anderson asked do you live in the area or do you have to drive. I own two trucks but if I had to I could walk. I live across from Bay Breeze. I live at the Mableton Village Apartments. Ms. Anderson asked Mr. Oak if he was doing anything like school or anything else. Mr. Oak stated no, he was not planning on going to school. I am trying to do everything I can, but it seems to be construction day labor. I also have run my own wallpaper business for commercial projects for five years for choice hotels new ones and renovating them. This seems to be the only jobs I can get because they don't do criminal background checks. They don't care. Ms. Anderson stated it seems to fall back in the same environment where there is alcohol involved. The busier you keep yourself and the more motivated you are into other things the less likely you are to fall back into other things. Mr. Oak stated he totally agreed with that. Mayor Jerkins asked Mr. Oak if he had a driver's license. Mr. Oak stated yes, sir he did. Mayor Jerkins stated to the council if you are thinking about him working there subject to what the probation officer says if you would like to vote on this and then he can bring something back to Chief Starrett or myself from the probation officer saying he can work there and then we can let him have a permit. If you are interested in doing that, I don't know that will be up to the council. Mr. Kimbrough stated or you can make a motion to deny his request.

Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the work permit with the exception if Mr. Oaks probation officer approves him working in a facility that serves alcohol. Seconded by Ms. Reagan. Motion passed (6-0).

Mayor Jerkins stated to Mr. Oak the Council will approve the work permit if your Probation Officer approves you working in a facility where they serve alcohol. Mayor Jerkins stated to Mr. Oak don't get into anything else. You a nice looking fellow and you need to stay clean and don't get out there and mess your life up. The Council has gone a long way to help and times is hard so don't make us look like a fool. You make us look good by doing the right thing.

**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mayor Jerkins stated the Powder Springs Franchise Fee has already been handled. Normal business was conducted at the meeting.

7. FINANCE DEPARTMENT

VIRGINIA REAGAN, CHAIRPERSON
Denise Soesbee, Director

- A. Financial Report
- B. Adopt Millage Rate – Information Only
Ms. Reagan stated the Millage Rate was adopted and voted on at 3.123.

8. GENERAL ADMINISTRATION

KIRSTEN ANDERSON, CHAIRPERSON
Carolyn Duncan, Director

- A. No Report

9. POLICE DEPARTMENT

VIRGINIA REAGAN, CHAIRPERSON
Bob Starrett, Police Chief

- A. Police Report
- B. Code Enforcement Report
- C. Reception – 6:30 P.M. – 10 Year Plaque & Pin - O.J. Pearson

10. FIRE DEPARTMENT

SCOTT THOMAS, CHAIRPERSON
Tim Williams, Fire Chief

- A. Fire Report
- B. Unsafe Building Update
Mr. Thomas stated he would like to turn this over to Chief Williams. Chief Williams stated we did hear good news over the weekend which dates back to the Brooks Drive property. After speaking with Mr. Bowens and Mr. Demeritt there was a proclamation for thirty-three million dollars approved for the buyback program (This is Federal funding for our entire area). This should take care of the Brooks Drive property. We are still waiting on the Court hearing on the Mulberry Street property as well as the Pine Street property.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 10**

The Rockhill Street property, I have spoken to Joshua Otts and his mother Mrs. Rita Otts and they are present tonight. After speaking with Joshua he informed me they will not be able to demolish the property. I advised they should appear before the City Council this evening and decide what to do with this property.

Mayor Jerkins asked what it would cost to demolish the property. Do we have any idea? Chief Williams stated, no sir. Mayor Jerkins stated maybe twelve hundred, fifteen hundred. Chief Williams stated, maybe, three thousand maximum. Mayor Jerkins asked if the City takes it down are you willing to pay or will we have to put a lien against it or do you wish to deed it to the City. Then the City would clean it up but I don't know what you want to do. Mrs. Otts stated financially I cannot demolish my parents home so the only thing we can do is put a lien against it. Then I would pay it off when I can. I thought I would be able to do it but some things have come up. I haven't been home in over a month because I am taking care of my mother. Other things have taken my money and I just can't have it demolished in the thirty days. Mayor Jerkins asked if our Attorney draws up the paperwork for us to take it down and whatever it cost us to demolish it because we will not make a profit on it and is the land in your name or more names. Mrs. Otts stated it was in her name alone. Mayor Jerkins asked are you willing to sign the documents stating you will pay us back. If you are, it will be easier for us instead of going to court. If you agree to this then Mr. Kimbrough will type up the paperwork and it will be a lot easier for everyone. If you agree to this and sign the documents then we will demolish the property. Then as you get the money you can pay us. Will this work you? Mrs. Otts stated, yes it would. Mr. Kimbrough stated he would type a promissory note to that effect in the amount of twelve hundred to fifteen to three thousand dollars. Mayor Jerkins stated we will not make a profit off of this property. Mr. Kimbrough stated we will initiate a promissory note and deed secured debt that will be filed against the property but we would not have to go through the formal court proceedings and presenting a lien and having it attached. Mr. Otts asked so it would be a lien but without the court proceedings. Mr. Kimbrough stated, yes. Mayor Jerkins stated this way you won't have to be involved in court and when you get financially able you can pay the City. The City will work with you on that part of it. Mrs. Otts stated that would be great. Mr. Kimbrough asked Chief Williams if we had all the contact information. Chief Williams stated, yes, we do. Mayor Jerkins asked if the Council was o.k. with this and they stated yes they were.

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
MONDAY, AUGUST 2, 2010
PAGE 11**

Mr. Standard asked if this agreement stipulated they cannot build another property on it until the debt is paid. Mayor Jerkins stated no one would want to put money into property that had a lien against it. Mayor Jerkins stated Mr. Kimbrough will submit the documents for you to sign at a later date.

C. Fire Engine # 2 Repairs – Information Only

Mr. Thomas stated the Fire Engine 2 was sent to Cummins South the week of July 12th for engine related problems. The engine was running rough and we were noticing a small coolant leak. The diagnostic test at Cummins indicated one Fuel injector had to be replaced. Also, the air compressor was causing the coolant leak and had to be replaced as well. All repairs have been completed and the unit is now in full service.

The total cost of repairs was \$3,324.44. The funds came from the current fire department budget line item 52.2201.

Mr. Thomas stated this item was previously discussed at pre-agenda on July 26, 2010.

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

A. No Report

**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

B. MDA Proclamation

C. Civitan Club

Mayor Jerkins stated the Austell Area Civitan Club has donated a thousand dollars toward the damage to Legion Field.

16. ADJOURN

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