

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, AUGUST 6, 2007**

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

Absent: Carolyn Duncan, City Clerk

The regular meeting of the Mayor and Austell City Council was held on August 6, 2007, at 7:00 P.M. at City Hall.

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

**1. CALL TO ORDER**

Mayor Jerkins called the meeting to order. Reverend Broom gave the Invocation. Mayor Jerkins led the Pledge of Allegiance. Mayor Jerkins asked if any member of the Council would like to add items to the agenda. Mr. Kimbrough stated he would like to add 14A. - Executive Session at the end of the meeting.

*Mr. Thomas moved to follow the recommendation of Mayor Jerkins to add items to the agenda. Seconded by Mr. Traylor. Motion passed (6-0).*

**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 \$1575.00
- C. Approve Minutes of Regular Meeting July 2, 2007
- D. Special Called Meeting 07-23-07

*Ms. Boyd 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 Mayor and Council. Ms. Cindy Anderson stated she would like to speak.

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Ms. Anderson stated she had a concern and complaint about the eighteen wheelers tractor-trailers coming around the curve so fast and running up on the curve at Jefferson Street and Veterans Memorial Highway. It is very unsafe and dangerous. I have a petition from the area signed by all the neighbors in this area.

Mayor Jerkins stated this was a state highway and the City would have no input on this or right to resolve the matter. It is a close curve and narrow highway if you're doing over thirty-five miles per hour. We have to allow over 10 miles per hour before we could stop the trucks. So, we are limited on this point. The only suggestion I would have is to get the speed limit lowered and this would have to be done by the State.

Ms. Boyd asked, did we at one time talk about putting up some signs? Mayor Jerkins stated, yes, we did. Ms. Boyd stated the trucks are cutting through some of the streets. Mr. Green stated maybe we could get the State to put a sign at the curve. Mayor Jerkins stated he didn't believe any tractor-trailer could do thirty-five miles per hour around the curve.

**6. GAS SYSTEM REPRESENTATIVE  
JOE JERKINS**

Mr. Kimbrough stated Mr. Hylton Dupree attended the gas meeting and regular items were discussed as well as the review of the budget for the upcoming year.

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

A. Financial Report

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

A. Court Services-\$5.00 User Fee

Ms. Anderson stated, as you know, the Police Academy needs additional funds to adequately run the program.

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The Board of Directors has met several times to discuss the situation and decided that a fair way to distribute the program cost would be a user fee for each participating entity. By adding an additional \$5.00 to every ticket written in each jurisdiction, additional funds would be provided in an equitable manner. The advantage of this proposal is that the funds would not come from governing budgets.

Therefore, we are asking the Austell City Council approve this concept and vote to add the requested \$5.00 to each ticket written in our City beginning in October 2007.

*Ms. Anderson moved to follow the recommendation of the Board of Directors to approve the \$5.00 User Fee beginning October 2007. Seconded by Ms. Boyd. Motion passed (6-0).*

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

- A. Police Report
- B. Code Enforcement Report
- C. Texaco Food Store – Privilege License Request

Ms. Reagan stated a Privilege License request has been submitted by Helen Kebede Alemu allowing her to sell beer and wine at the Texaco Food Store, located at 2671 Jefferson Street in Austell. She is the new owner of this business. A copy of the application is attached for your review. A background check has been conducted and revealed no prior arrest on this applicant. Ms. Reagan stated, on the application liquor was checked and this would not be allowed. Ms. Reagan asked Ms. Alemu if she understood she could not sell liquor in her store. Ms. Alemu stated, yes, just beer and wine.

*Ms. Reagan moved to follow the recommendation of the Police Committee to approve the Privilege License request for Texaco Food Store. Seconded by Mr. Thomas. Motion passed (6-0).*

- D. Café Hot Wings – Underage Alcohol Sales

Ms. Reagan stated on June 21, 2007, during an Alcohol Compliance Check, employee Kum Chae Lee sold alcohol to a person under the age of 21. The person she sold to was 18 years of age.

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This was witnessed by Chief Starrett, Austell Police Department, and Rebeccah Westenberger and Chris Lee of the Cobb County Sheriff's Office.

Mrs. Lee was charged with Alcohol Sale to a minor. In court on July 19, 2007, Mrs. Lee entered a plea of Nolo Contendere, and she received a suspended sentence of confinement, and a fine in the amount of \$409.00.

At this time she was still employed at Café Hot Wings.

The previous history of this location is as follows:

- July 10, 2000 – Sales to a minor by Kum Chae Lee. Café Hot Wings received six (6) Months Probation by Council.
- June 4, 2001 – Sales to a minor by Kum Chae Lee. Café Hot Wings received one (1) Year Probation by Council.
- February 4, 2002 – Sales to a minor by another employee. Café Hot Wings received three (3) months suspension of their Alcohol License.
- December 4, 2006, Kum Chae Lee was granted an Alcohol Work Permit by Council, who waived the Criminal History requirement. Mrs. Lee's Criminal History revealed a felony conviction.

Ms. Reagan stated she would now turn the meeting over to Mr. Kimbrough, City Attorney, for a Public Hearing. Mr. Kimbrough asked who would be representing the City in this matter. Ms. Reagan stated Chief Starrett would be representing the City as well as Chris Lee from the Cobb County Sheriff's Office. Mr. Kimbrough asked who would be representing Café Hot Wings. Ms. Anne Lee Park, the daughter of Mrs. Lee, stated she and her mother Mrs. Lee would be representing Café Hot Wings. Mr. Kimbrough swore in all parties pertaining to this matter.

“Chief Starrett stated, during an Alcohol Compliance Check we sent in an eighteen (18) year old into Café Hot Wings and they sold alcohol to him. Deputy Lee was a witness inside the store and saw it being sold to a minor. After that we cited her and she has already been to court for the violation. I also have all the history for Council to review. Mr. Kimbrough asked the daughter, Ms. Park, if her mother could understand English.

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Ms. Park stated she would translate for her. Mr. Kimbrough asked again if Mrs. Lee could understand English and/or speak English. Ms. Park stated somewhat, but she would need to translate for her. Mr. Kimbrough asked does she know what is going on? Mr. Kimbrough asked Mrs. Lee if she understood everything Chief Starrett was saying. Mrs. Lee stated, some of it. Mr. Kimbrough stated we need a certified translator for this issue because Mrs. Lee does not seem to understand English and she has a right to defend herself. Of course it would be up to the Council if they got a certified translator but, I would recommend a translator. Chief Starrett asked if it would be possible for Council to suspend the license until the next hearing. Mr. Kimbrough stated he thought we could do this until we can have a certified translator here at the next meeting. Ms. Park stated last time we did not have to have a translator for her. I came with her to the meeting. Ms. Park stated she would not sue the City and Mr. Kimbrough stated, you may not but someone else could and would. Ms. Park asked Mr. Kimbrough if she should hire an Attorney and he told her that would be up to her. Mayor Jerkins stated if they hire an Attorney would it be o.k. and legal for Mrs. Lee and then they would not have to have a certified translator. Is this correct? Mr. Kimbrough stated, yes, this was correct. Ms. Park stated the business has been so slow and with you suspending our beer license for a month it is really hurting us. Mr. Green asked how long since the last time that you were suspended. It has been about four years. Mr. Green stated it is probably going to be suspended again and that one month would be time served against the suspension. Ms. Boyd stated to Mr. Green he had the history in his council material. Mr. Green stated, in any event the translator would be beneficial for you and this is why our Attorney suggested it for your defense. Mr. Kimbrough suggested the license be suspended for one month until the September 10, 2007, Council Meeting.

*Ms. Reagan moved to follow the recommendation of the Police Committee to suspend the license of Café Hot Wings until September 10, 2007, the next Council Meeting. Seconded by Mr. Thomas. Motion passed (6-0).*

Mayor Jerkins reiterated, we have suspended your license for a month and Mayor Jerkins asked Chief Starrett to pick up their license and stated the next Council Meeting will be September 10, 2007. We will have another hearing at that time. You may want to have your Attorney present and we will try to contact someone for a translator.

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E. Quick Pick – Underage Alcohol Sales

Ms. Reagan stated on June 21, 2007, during an Alcohol Compliance Check, employee Faisal Raza sold alcohol to a person under the age of 21. The person he sold to was 18 years of age. This was witnessed by Chief Starrett Austell Police Department, and Rebekkah Westenberger and Chris Lee of the Cobb County Sheriff's Office.

Mr. Raza was charged with Alcohol Sale to a Minor. In court on July 19, 2007 Mr. Raza entered a plea of guilty, and he received a suspended sentence of confinement, and a fine in the amount of \$409.00.

At this time he was still employed at Quick Pick.

Ms. Reagan stated at this time she would turn the meeting over to Mr. Kimbrough for a public hearing. Mr. Kimbrough stated he would call a public hearing at this time. Mr. Kimbrough called all the witnesses to the front and asked who would represent Quick Pick. Mr. Patel, the owner, stated he would. Mr. Kimbrough swore in everyone and asked Chief Starrett to give his statement first. Chief Starrett stated on June 21, 2007, during an Alcohol Compliance Check, employee Faisal Raza sold alcohol to a person under the age of 21. This is the first time Mr. Raza has sold to a minor before. Mr. Kimbrough asked Mr. Patel if he had any questions for Chief Starrett. Mr. Patel, stated, no, he had no questions. Deputy Chris Lee gave his statement as follows: We had the minor go in and he went to where the beer was kept. I went in right after and bought a pack of aspirin when the minor put the beer on the counter. Mr. Raza did not ask for identification or anything. The minor gave Mr. Raza a twenty dollar bill to pay for the beer and Mr. Raza gave him change. At that time, I gave my identification and told Mr. Raza I was with the Cobb County Sheriff's Office and the other officers came in and gave him his citations. Mr. Kimbrough asked Mr. Patel if he had any questions of Mr. Lee. Mr. Patel stated, no, he did not. Mr. Kimbrough asked if Mr. Patel had anything he would like to add on his behalf. Mr. Patel stated Mr. Raza's father was really sick in the hospital in New York and I guess he was distracted. Chief Starrett asked if he was still working in the store. Mr. Patel stated, yes, he was, but he was going to dismiss him. Mr. Green asked if this is the same owner that has three (3) violations. Chief Starrett stated, yes. Mr. Patel stated he had owned the store (15) fifteen years. The council members reviewed what had been done in the past.

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Ms. Boyd stated Mr. Patel's business had never had his license suspended before. Ms. Boyd stated Mr. Patel had been on probation three times. Ms. Boyd asked if Mr. Raza was a member of his family. Mr. Patel stated, no, he was not a family member. Ms. Boyd asked how long has Mr. Raza been working for you? Mr. Patel stated about a year. Ms. Boyd asked Mr. Patel if he did any training for his employees. Mr. Patel stated, yes, he did. I have spent about (\$6,000.00) six thousand dollars to put a cash register in to avoid the problem but some of the employees would override the system. Ms. Boyd stated it seems you have taken precautions to keep your employees from selling to a minor. Mr. Patel, stated, yes, he has tried. Mr. Kimbrough asked if anyone had any other questions. Chief Starrett asked if Mr. Patel had sent any of his employees to any of the programs the county offers. Mr. Patel stated, yes, he had gone to the classes. Mr. Kimbrough stated he would recommend the public hearing to be closed concerning Quick Pick-Underage Alcohol Sales.

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

Ms. Reagan stated she would like to know what Chief Starrett would recommend. Chief Starrett stated he would recommend three (3) months suspension. Ms. Boyd stated to Ms. Reagan, what about until the first of the year? Ms. Reagan stated, no, I think (3) three months will be sufficient.

*Ms. Reagan moved to follow the recommendation of Chief Starrett to suspend Quick Pick license for (3) three months. Seconded by Mr. Thomas. Motion passed (6-0).*

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

- A. Fire Report
- B. Cobb County Community Emergency Response Team (C.E.R.T.) – Information Only

Mayor Jerkins stated the representative for (C.E.R.T.) was present to speak to Mayor and Council. Ms. Anita Lloyd introduced herself and stated she was the Deputy Director for the C.E.R.T. and she would give a brief description of the program.

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We have a Community Emergency Response Team in Cobb County and all residents in Cobb County should have an opportunity to increase their preparedness for disasters. We do this through our office and through displays, presentations, organizations. We have a citizen action guide which is used as a summary: how to make disaster kits, how much water you will need, who your contacts need to be, what to do when the sirens sound off and what to do to evacuate.

Most people think disasters will not happen and most think it could never happen here or to me. You all witnessed Hurricane Dennis and all the flooding. We have found, as annual events in Cobb County and Rome and what we have experienced. One (1) to two (2) floods per year, one to two tornadoes per year, five to six severe thunderstorms, winter storms as well as several hazard material spills. We had a hazmat material spill not too long ago. It could be transportation or facilities or it could be through other types of transportation. There are myths that go along with any type of crisis that individuals are in panic mode and they are scared and need help. This may be true if you are trapped but normally what we see is citizens become heroes and rise to the occasion. We will do whatever is necessary to survive and protect our neighbors and loved ones. Back in the early eighties the Los Angeles Fire Department had a lot of wildfires so they developed a program called the C.E.R.T. Team. This was to train citizens on how to protect their neighbors in times of disaster. They were having lots and lots of volunteers and they needed to become organized so they developed the C.E.R.T. Teams. After 911 happened the President was looking for a way to ask citizens to come and get involved and step up to the plate and become volunteers. They adopted the C.E.R.T. program template and it has been accepted very positively because it was such a good program. Every person that goes through this program goes through the same training throughout the United States. Cobb County has (564) five hundred and sixty-four members, the most in the entire state and almost in the entire country. We have members going through the classes right now so that would be almost six hundred members. We only have three members in the City of Austell.

We really need more members within the City of Austell to know how to work with the first responders. I would like to urge you to support the C.E.R.T. program and urge you to be part of the program. Mr. Thomas asked how long the classes last. Ms. Lloyd stated it was a twenty (20) hour class.

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**11. PUBLIC WORKS DEPARTMENT**

**DAVID “BO” TRAYLOR, CHAIRPERSON  
Randy Bowens, Director**

**A. Approval of Street Lighting Plan for Cureton Woods Phase II**

Mr. Traylor stated it is the recommendation of the Public Works Committee to accept the attached street lighting plan for Cureton Woods Phase II as presented in the attached plan. The plan includes twelve (12) 150-watt traditional post top fixtures mounted on sixteen (16) foot black fiberglass poles. After acceptance by the City of Austell, the monthly cost will be \$147.96; however, the developer will be responsible for pole installation and the first year costs.

*Mr. Traylor moved to follow the recommendation of the Public Works Committee to approve the Street Lighting Plan for Cureton Woods Phase II. Seconded by Ms. Boyd. Motion passed (6-0).*

**B. Renewal of Solid Waste Service Contract**

Mr. Traylor stated the Public Works Committee would like to recommend approval of the enclosed Agreement for solid waste services for a two-year period beginning September 1, 2007, and terminating on August 31, 2009.

Over the course of this Agreement, the rates will increase only \$1.00. Following are the disposal rates per ton:

>>September 1, 2007, to August 31, 2008: \$36.00 plus fuel recovery fee  
>>September 1, 2008, to August 31, 2009: \$37.00 plus fuel recovery fee

Further, the Committee recommends authorization of execution by Mayor Joe Jerkins.

*Mr. Traylor moved to follow the recommendation of the Public Works Committee to approve Renewal of Solid Waste Service Contract and to give authorization of execution to Mayor Joe Jerkins. Seconded by Mr. Thomas. Motion passed (6-0).*

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**12. PARKS DEPARTMENT**

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

A. No Report

**13. COMMUNITY DEVELOPMENT**

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

A. Site Plan Revision for property owned by Pat McPherson located on Westside Road.

Ms. Boyd stated on October 2, 2006, Mayor and Council approved a proposed development on property located on Westside Road in LL's 18 and 19. At the time of this approval, our stream buffer requirement was 50 ft. It has been increased to 100 ft.

The Community Development Committee is requesting permission to require Mr. McPherson to revise his site plans in order to abide by the new 100 ft. buffer measurement.

We further ask for approval of the additional revisions that will be necessary to allow for this increased buffer zone area. They are as follows:

- Increase average lot size from 65 ft. to between 70 ft. and 75 ft. in order to accommodate a slightly larger home with more yard area.
- Reduce the front building set backs from 30 ft. to 25 ft. in order to remain further away from stream buffered areas.
- Close the Mary Street entrance and reroute the proposed street to parallel the creek. That will adjust the street patterns in order to become more uniform with adjoining property owners.

*Ms. Boyd moved to follow the recommendation of the Community Development Committee to approve the Site Plan Revision for property owned by Pat McPherson located on Westside Road. Seconded by Ms. Reagan. Motion passed (6-0).*

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**B. Recertification of HB489 Service Delivery Strategy**

Ms. Boyd stated in order for the City to maintain its Qualified Local Government status the state Department of Community Affairs requires each municipality in Cobb County to recertify their HB 489 agreements. By maintaining this status we are able to continue getting financial aid through grants and other government programs. The recertification is done in conjunction with our 10 year Comprehensive Plan Update. Because there have been no changes to the Service Strategy and work on the update has not identified or recommended any changes, the Community Affairs Committee recommends that this recertification be approved.

*Ms. Boyd moved to follow the recommendation of the Community Affairs Committee to approve the Recertification of HB489 Service Delivery Strategy. Seconded by Ms. Reagan. Motion passed (6-0).*

**C. Bid Approval for TE Sweetwater Trail Project**

Ms. Boyd stated the Community Affairs Department accepted contractor bids on the TE Trail Project on July 27, 2007. Bids were opened at 12:00 noon.

The Community Affairs Committee recommends approval of the low bid of \$299,215.00 made by Butch Thompson Enterprises.

*Ms. Boyd moved to follow the recommendation to approve the low bid of \$299,215.00 made by Butch Thompson Enterprises. Seconded by Ms. Reagan. Motion passed (6-0).*

**14. CITY ATTORNEY – DUPREE, KING & KIMBROUGH**

**A. Executive Session**

Mayor Jerkins stated he and Council went into Executive Session meeting and no voting took place. However, we need a motion to be made now per our discussion in Executive Session.

*Ms. Boyd moved to follow the recommendation of the City Council to give Mayor Jerkins the authority to attend the mediation on Monday, August 13, 2007, for Sign Ordinance Lawsuit for the best interest of the City of Austell. If not in the best interest per our discussion you may bring back to the Council. Seconded by Mr. Green. Motion passed (6-0).*

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Mayor Jerkins recommended a motion to close the meeting.

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

**15. MAYOR'S REPORT**

**A. CMA MEETING**

**NO MEETING  
SUMMER BREAK**

**B. MDA Proclamation**

Mayor Jerkins stated he would like to do the proclamation first on the agenda. Mayor Jerkins stated he would like to thank the Fire Department for their efforts and their dedication in collecting donations for the MDA.

Mayor Jerkins read the Proclamation and proclaimed August as MDA Firefighters appreciation month in Austell and encourage all citizens of Austell, Georgia, to recognize and support the efforts of these firefighters on behalf of MDA.

*Mr. Traylor moved to follow the recommendation of Mayor Jerkins to approve the MDA Proclamation. Seconded by Mr. Thomas. Motion passed (6-0).*

Mayor Jerkins stated a representative from the MDA was present to receive the Proclamation. The representative thanked the City of Austell and Chief Williams for their support and efforts. This year the city met their goal of \$3,500.00.

**C. A.A.C.I.C. Grant Request - \$25,000.00**

Mayor Jerkins stated the \$25,000.00 grant request was discussed at pre-agenda on July 30, 2007. Mayor Jerkins recommended the grant request be approved to Sweetwater Valley Community Action Mission Program. Ms. Boyd asked if this would be a one time donation. Mayor Jerkins stated, yes, it would be a one time grant.

*Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the \$25,000 grant request for the Sweetwater Valley Community Action Mission Program. Seconded by Ms. Reagan. Motion passed (6-0).*

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**16. ADJOURN**

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