

**MINUTES OF THE  
REGULAR COUNCIL MEETING  
CITY OF AUSTELL  
MONDAY, NOVEMBER 1, 2010**

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

Absent: Martin Standard

The regular meeting of the Mayor and the City Council was held on Monday, November 1, 2010 at 7:00 P.M. at the City Hall.

Also present were: Scott Kimbrough, City Attorney; Carolyn Duncan, City Clerk; 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. Scott Kimbrough 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. Mr. Green stated he would like to add under Parks – 12B. – FYI...(Legion Park Ball Field Restoration Phone Poll). 12C. – Playground Fencing. 11B. – Hazard Mitigation Grant Program – Property Acquisition. 11C. – Natural Resource Conservation Service Emergency Watershed Protection Grant. 14A.- 2011 S.P.L.O.S.T. Agreement.

*Mr. Thomas moved to follow the recommendation of Mayor Jerkins to add the items to the agenda. Seconded by Mr. Green. Motion passed (5-0).*

**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 \$1,225.00
- C. Approve Minutes of Regular Council Meeting September 13, 2010

*Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the Consent Agenda. Seconded by Mr. Green. Motion passed (5-0).*

**4. EXCEPTION TO CONSENT AGENDA**

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**5. CITIZENS REPORT**

Mayor Jerkins asked if anyone would like to speak to the Council tonight.

Ms. Dawn Holley stated her name and stated she lived at 6200 Humphries Hill Road. I have a complaint. I was in my camper on his property, the man standing next to her Mr. Daniel Gilstrap, and my daughter and I were in the camper and the police came and we didn't know they were there. They started yelling for us to come out of the camper and when I came out the officer was standing there with a gun aimed at me and my daughter coming out behind me and the other officer threaten my daughter with the dog and would not tell us what was going on or anything. I found out later they were looking for somebody. Mayor Jerkins asked Chief Starrett if he was aware of this. Chief Starrett stated he had met with her and I told her as soon as the investigation was over I would contact her. There are still some things we have to do. This was last week when I discussed this with her and I told her I would get with her sometime this week. Mr. Daniel Ray Gilstrap stated we have a problem because these officers come on my property. The City of Austell just refused a 911 call to my address. They said they would not send anyone out and Cobb County sent an officer out and responded. Chief Starrett stated they are not in the City limits. Mayor Jerkins stated so they are not in the City limits? Mr. Gilstrap stated we are in the city limits but my land is in unincorporated Cobb County and I do not pay city taxes. Mayor Jerkins stated that means you are not in the city limits. Sometimes we will catch the 911 but Cobb has to respond and then they have to ask us to go because you are not in the city. Mr. Gilstrap stated but when you dial 911 and it goes to Austell. Mayor Jerkins stated it shouldn't happen because you are not in the city. Mr. Gilstrap stated he listened on the radio what Cobb County was saying to Austell. Mayor Jerkins asked, what did Cobb County say. Mr. Gilstrap stated they said to Austell you are refusing to go to this 911 call. Mayor Jerkins stated we have a mutual agreement with Cobb and we should have went to the call regardless. The 911 calls have been made from the brick house on the hill up above me and they have a pit bull and I don't know if they were turning it loose on purpose. Every Sunday when I come home from church this dog was terrorizing us and the neighbor between me and the brick house. He actually ran some of us into the house and has run some of us into my shop in the back. Mr. Kimbrough asked what address do you live at? Mr. Gilstrap stated he lived at 6200 Humphries Hill Road. Mr. Kimbrough asked Ms. Holley if she lived there as well. Ms. Holley stated, yes, she did. Mayor Jerkins stated you are in Cobb County and we shouldn't have anything to do with your trailer. Mayor Jerkins asked if they had warrants to Chief Starrett. Chief Starrett stated, no they did not, but they were in the process of getting a warrant.

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Mr. Gilstrap stated at the end after they finally told me what was going on that my son and his wife outran them on foot and his wife weights three-hundred pounds. If he outran one of your officers we need to hire new officers. Chief Starrett stated he didn't know anything about the lady but it was your son. Mr. Gilstrap stated they came on my property without any kind of a warrant. Mayor Jerkins stated if they saw him on your property then they could go. Mr. Gilstrap stated they didn't see him go on my property because he wasn't in Cobb County he was in Alabama. Mayor Jerkins stated Chief Starrett is looking into it and we will get back with you. Mr. Gilstrap stated, o.k. Mayor Jerkins stated he was sorry he was having trouble and we should respond to the 911 call regardless. Chief Starrett stated we have responded to the call about the pit bulldog. Mayor Jerkins stated even if they are not in the city we should respond. Chief Starrett stated we actually recovered some property that was stolen from you. Mr. Gilstrap stated that has been fifteen years ago. Chief Starrett stated he did not think it had been that long. Mr. Gilstrap stated, yes, sir that was fifteen years ago and I am talking about today. Chief Starrett stated you are not in the city limits but we have responded to numerous calls on your property in the last few years. Mr. Gilstrap stated, but they would not answer a 911 call. Chief Starrett stated we have to answer what we can answer and if it is an emergency call like the pit bull call we responded to that. Mr. Gilstrap stated no, you did not. Chief Starrett stated, yes we did. I have reports on the call and the lady that was over there at the time. Ms. Holley stated there is one incident you did not respond to. Chief Starrett stated well, that could be but we did on the pit bull. Mr. Gilstrap stated there were three different calls because it was three different Sundays in a row they let this pit bull out. Chief Starrett stated sometimes Cobb will call us and if they cannot handle then we will. Ms. Anderson asked if they had called Cobb Animal Control. Mr. Gilstrap stated Cobb Animal Control came out all three times. All they can do is fine the people and the people kept paying the two hundred and something fine each time. They told us they could not make them put them in a pen or on a leash or anything. They told us if they don't want to do it we cannot make them. They keep paying the fine and getting the dog back. Mayor Jerkins stated he thought the fine would get higher each time. Maybe it would get so high they don't wish to pay it. In most cases the fines will get higher. Ms. Holley stated she was upset and there was no reason for this because she was threatened at gunpoint and by dogs. They didn't ask us to come out or even say they were the Police they just started yelling to come out. Mr. Gilstrap stated if they had come on my property and they were chasing him and had him in eyesite which by law they can go anywhere they want to go. This wasn't the case here. I asked them where the warrant was and they said they didn't have one and I asked three times to leave my property.

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Mayor Jerkins stated Chief Starrett is looking into it and we will get back with you. Mr. Gilstrap stated, o.k. Ms. Reagan asked Ms. Holley how old is your daughter? Ms. Holley stated she was twenty-one years old. Ms. Reagan stated you said they threatened her with the dog. Ms. Holley stated, yes. Ms. Reagan asked in what way? Ms. Holley stated I was coming out the door and she was right behind me and the officer stated to her get out here now or I will sic my dog on you. Mr. Gilstrap stated and the officer had a gun in his hand. He was there with guns drawn. Ms. Holley stated this is what I am upset about and my daughter just had a miscarriage two days before all this happened and I felt like it was uncalled for. Ms. Reagan asked Chief Starrett to please inform the council of what happens. Mayor Jerkins stated Chief Starrett is working on the investigation and we will get back with you and I am sorry you are having trouble.

**6. GAS SYSTEM REPRESENTATIVE  
JOE JERKINS**

Mr. Kimbrough stated he attended the meeting last Thursday and it was just the normal business meeting adopting the gas rate schedule applicable for this billing period.

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

- A. Financial Report

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

- A. No Report

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

- A. Police Report  
B. Code Enforcement Report

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**10. FIRE DEPARTMENT**

**SCOTT THOMAS, CHAIRPERSON**

**Tim Williams, Fire Chief**

- A. Fire Report
- B. Unsafe Building Update

Chief Williams stated the only report he had tonight would be the Rockhill property. This property has been demolished and it was done by a private contractor. The amount was less than \$4,000.00 we originally planned. The demolition came to \$3500.00.

Mr. Thomas asked if anyone had any questions for Chief Williams. Ms. Causey asked what is happening to the property on Pine Street and do you know if it has sold or not. Chief Williams stated, no, he did not know. Ms. Causey asked about the Mulberry Street property. Mayor Jerkins stated he thought he was working on it and I know he has done some on the house. Ms. Causey stated he hasn't done a whole lot on the house. Ms. Anderson asked if the dump truck in the front yard would be a code violation. Mayor Jerkins stated it should be parked on a hard surface. If it is under ten thousand pounds it would be o.k. I don't know what it would weight but it probably would be on the borderline.

**11. PUBLIC WORKS DEPARTMENT**

**MARTIN STANDARD, CHAIRPERSON**

**Randy Bowens, Director**

**1. Recommendation and Approval:**

- A. Addendum to Recycling Service Contract

Mayor Jerkins stated this a yearly contract from one year to the next and we need to vote on the Addendum to Recycling Service for the next year.

*Mr. Thomas moved to follow the recommendation of Mayor Jerkins to approve the Addendum to Recycling Service Contract for the next year. Seconded by Ms. Causey. Motion passed (5-0).*

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**2. Vote To Add:**

**B. Hazard Mitigation Grant Program – Property Acquisition**

Mayor Jerkins stated this is the property we will be inquiring about the flood. Mayor Jerkins asked Mr. Bowens if he would like to comment on the twenty-three homes.

Mr. Bowens stated basically what we are looking at the City of Austell has been approved for the purchase of twenty-three structures totaling up to \$2,967,278.00 awarded from the Georgia Emergency Management Agency. Of that amount that totaling and including all the add-ons that would be included as far as demolishing the property, and removing the homes in the 100-year floodplain and turning into green space. Duane, myself and the consultant decided to do with the Mayor's approval is try to come up with a way to start the process. We have actually met with Denise and asked for her input on actual starting fees on it because the way the process works is FEMA will have this money set aside for the city to acquire the structures. We then have to show receipts where we have actually purchased them in order to receive reimbursement. The reimbursements will be your spreadsheet information. Mayor Jerkins stated FEMA will pay seventy-five percent (75%) and GEMA will pay ten percent (10%). Then our part will be fifteen percent (15%). The dollar value of it or the whole total project would be \$2,967,278.00. The federal part of it will be \$2,225,459.00. GEMA's part which is Georgia is \$2,967,278.00 and the City's part will be \$445,092.00. What happens is we have to purchase each house like we are buying it at a closing and we have to pay for it and then they give us a check back for their part which probably will take ten days. We will be using city money to get this through the process. It will end up costing us about \$445,092.00. What we need the council to do is to approve this and vote on it so we can go forward with it. Mr. Bowens stated we need some direction on which scenarios to choose. We have three different scenarios on properties to purchase and the least expensive. There are some properties that were flooded in 2005 and 2009. This is included in your packet labeled Group 1, Group 2, and Group 3. This will actually give us like the Mayor indicated seed money to move forward. We will actually have to go to the closing and pay the money and send those cancelled checks and receipts to FEMA and to GEMA to be reimbursed. Group 1 and we decided four properties to start and either one of these scenarios is what we would like to do.

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We are looking for direction from Mayor and Council on this and some of these will fall in 2005 and 2009 flood. The Group 1 totaled \$179,760.00 for the total project cost. Group 2 totaled \$140,790.00 and Group 3 is \$232,790.00. We will close on those four houses as soon as we can set it up with the closing attorney. Then, we will go back once we get reimbursed from GEMA and FEMA and go back and buy an additional four until we reached all three groups. Mayor Jerkins asked Mr. Bowens if he had any preference. If not, just start with Group 1 and then Group 2 and then Group 3. Mr. Bowens stated we can do that and start with Group 1 and then proceed on to the next group. Mayor Jerkins stated there are actually twelve houses in all three groups. Mr. Bowens stated, yes, it was twelve. Mayor Jerkins stated unless someone has a problem just start with Group 1, and then Group 2, and Group 3. Mr. Bowens stated there will be some changes in Group 2 because David "Bo" Traylor appears in Group 1 and Group 2 so we would pick another house and it would be from Group 3. Ms. Anderson stated there is also another house on Pontiac Circle that appears in Group 1 and Group 3. Mr. Bowens stated in some of the details on the paperwork and some of the documentation that we will need to expedite their package. Even with the a lot of paperwork they are assigning now we have yet to get the quote and those have to be sent to GEMA and approved then FEMA approves those and then we get that back and then we can sat down and setup a closing date and once we sign we can cut them a check at that point and time and then physically the City will own the property.

*Mr. Thomas moved to follow the recommendation of the Public Works Committee to approve starting with Group 1 and going through to Group 3. Seconded by Mr. Green. Motion passed (5-0).*

- C. Natural Resource Conservation Service Emergency Watershed Protection Grant  
Mr. Bowens stated the NRCS came to the City and made available funding and assistance from the 2009 flood. In doing so, they sent a representative out to look at that portion of Legion Field and it had severe damage due to the flooding. We walked the site with him and then he sent us a report back saying the City had been approved for \$25,000.00. This was to assist with the cleanup areas only and not to do anything other than cleanup the debris that had fallen into the Sweetwater Creek and blockages along that corridor and we brought this to his attention. We went out and solicited companies that might be willing to do the cleanup for us.

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We had three bids to come in and I think the cheapest one is \$25,000.00. We are held to a tight time frame on doing this which we will head up now and work on the weekends. We did phone poll all of the Council and we appreciate all of you responding. No one had a problem with us going with the lowest bid and this is on the agenda tonight.

*Mr. Thomas moved to follow the recommendation of the Public Works Committee to approve the acceptance of the Emergency Water Protection grant and to award the work to the lowest bidder, Carols Jones, in an amount not to exceed \$25,000.00. Seconded by Ms. Reagan. Motion passed (5-0).*

Mr. Demeritt stated he would like to make an announcement. On November 8, 2010 we will have another S.P.L.O.S.T. open house meeting from 6:00 P.M. to 8:00 P.M. at the Threadmill.

**12. PARKS DEPARTMENT**

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

A. Leasing of Legion Park Ball Fields

Mr. Green stated the city has received two proposals to lease the ball fields and concession building at Legion Park. One came from GPA Hooks., Inc. and another from Global Sports Authority (GSA).

Mr. Green stated after serious consideration my recommendation is to go with GSA. (Global Sports Authority). Mayor Jerkins asked if it was a two year lease. Mr. Green stated, yes, it was a two year lease and we will work out the fine details in the contract. Mayor Jerkins asked what the details are because we have one council member that is not present and he has some stipulations he would like to add to it and will that be part of the contract. Mr. Green stated he had just received this information and had not read it all. Mayor Jerkins stated so you are making a motion not knowing what you are proposing. Mr. Green stated I thought we had worked out the contract and the final details of it. If the council is to vote on it then they need to know what they will be voting on. Mayor Jerkins stated the problem is will it be baseball, softball or soccer or what. The teams are setup for baseball.



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Mr. Green stated they are going to set it up and have their tournaments on the weekends and they will be the Youth Association of Baseball. Mayor Jerkins asked if it was going to be all baseball. The baseball they setup for us and the recreational teams will be. Mayor Jerkins stated so they will not do anything except baseball. Mr. Thomas stated to Mr. Green to read it off. Ms. Reagan stated she respectfully requested to postpone this until the December 6, 2010 meeting. All of this information needs to go back through committee because it never did go through committee. We need to go back and work on this some more. Mayor Jerkins asked Mr. Green if he would like to withdraw his motion. Mr. Green stated that according to the Mayor we do not have a contract completed and he wants a contract completed on the motion. Mr. Kimbrough stated no, we do not want a contract completed we just wanted to know what is in the motion. Mayor Jerkins stated we need to know what you are voting on. Mr. Green stated he would withdraw his motion and we will go over it and go to committee. Mr. Kimbrough stated the committee will take these matters up and I would suggest they receive a budget from both of them. They can look at the proposals and the budgets. Also, if the suggestions by Mr. Standard will be included and made to be aware of that and included in the proposal. We will have all of this wrapped up nice and neat in December.

*Mr. Green moved to follow the recommendation to table the Leasing of Legion Park Ball Fields until December 6, 2010. Seconded by Ms. Reagan. Motion passed (5-0).*

Mayor Jerkins stated the committee will meet and study the proposals then it will come back to council for a vote. Mr. Kimbrough stated you need to have your proposals and your budgets with these new suggestions and returned to Mr. Graham before the committee on November 10, 2010.

**B. FYI...(Legion Park Ball Field Restoration Phone Poll)**

Mr. Green stated the Parks Department received three (3) contractor bids for flood restoration work on the ball fields at Legion Park. They were as follows:

Johnson Golf and Athletic Services	\$41,125.00
Mike Westmoreland Contracting	\$50,800.00
Roach Landscaping Company	\$38,604.00

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A phone poll of the Council asking for the acceptance of the lowest bid from Roach Landscaping was conducted and resulted in a unanimous approval.

Mr. Roach also agreed to do the final drainage and sand installation for the playground area beneath the dollar amount allotted by FEMA which is \$11,960.00. (See attached estimate list.)

*Mr. Green moved to follow the recommendation of the Parks Department Committee to approve the lowest bid Roach Landscaping. Seconded by Mr. Thomas. Motion passed (5-0).*

**C. Legion Park Playground and Concession Area Fencing**

Mr. Green stated the Parks Department has received 3 estimates for replacing the fencing around the playground and on the left hand side of the Concession Facility. They are as follows:

West Side Fence Company	\$4,350.00
Douglasville Fence Company	\$4,900.00
Cliff Crider Fence Company	\$3,700.00

The Parks Committee recommends accepting the low bid from Cliff Crider Fence Company. The money will come from the Parks Department, Line Item 53.1100.

*Mr. Green moved to follow the recommendation of the Parks Committee to approve the Legion Park Playground and Concession Area Fencing to be done by the lowest bidder Cliff Crider Fence Company. Seconded by Mr. Thomas. Motion passed (5-0).*

**13. COMMUNITY DEVELOPMENT DEPARTMENT  
TRUDIE CAUSEY, CHAIRPERSON  
Jim Graham, Director**

- A. Ms. Causey stated the Community Affairs Department has an Amendment to the City of Austell Code of Ordinances and at this time I would like to turn this over to the City Attorney, Mr. Kimbrough.

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Mr. Kimbrough stated at this time I would like to call for a public hearing in the matter of Amending the Code of Ordinances for the Zoning Ordinances for the Retail Sale of Alcohol Beverages for Consumption on the Premises. Mr. Kimbrough asked if anyone had signed up to speak in opposition. No one did. Mr. Kimbrough stated having no objections I entertain a motion to close the hearing.

*Mr. Thomas moved to follow the recommendation of Mr. Kimbrough to close the public hearing. Seconded by Mr. Green. Motion passed (5-0).*

*Ms. Causey moved to follow the recommendation of the Community Affairs Committee to approve the City of Austell Code of Ordinances. Seconded by Ms. Anderson. Motion passed (5-0).*

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

A. 2011 SPLOST Agreement

Mr. Kimbrough stated we have added this to the agenda tonight. I have spoken with the Attorney for the county today and she e-mailed me a draft of the Intergovernmental Agreement that we have to put in place in order for the SPLOST to go through and not only for Austell but for all the counties to receive their portion of the SPLOST funds. Just for your information this is Special Purpose Local Option Sales Tax that will not go on top of the one that is currently in place which is expected to run out next year. Mayor Jerkins stated it will run out the end of next year. Mr. Kimbrough stated this one will take effect when this one runs out. This Intergovernmental Agreement has to be signed by all the Mayors of the municipalities by November 23, 2010. I have distributed the draft of the agreement and it is pretty much what the agreement will say although it may be altered a little bit here and there. I don't think there will be a substantial alteration of that agreement. The reason I brought this to your attention tonight there is two ways we can handle this and one is to get this final draft of this agreement from the county and review it and have it in final form and call a special meeting in order to come back and vote on it before the 23<sup>rd</sup> of this month. Or, we can vote to give the Mayor permission to execute the agreement so long as it is in substantial compliance with what you have before you.

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Obviously, if it isn't he would then call a special meeting to review and vote on a new agreement. We can handle it one of two ways. Mayor Jerkins stated we have been working on this and it takes time for all the cities to get with the county and get it all worked out. It's going to be split three ways and what is the percentage Mr. Demeritt? Mayor Jerkins stated it was twenty-five percent for Parks, sixty for Transportation and fifteen for Public Safety. Mr. Demeritt stated we just submitted our final list to D.O.T. on Friday. Mayor Jerkins stated it is a period of six years. If it continues and it is passed it would mean a little over seven million for the city to receive in that six year period. The sixty percent would be paving roads and doing some sidewalks and different things and Public Safety would be a new fire truck and six patrol cars and that would be some of the money going to Public Safety. We are also looking at a 911 center. I don't know what Parks would because I don't know what Mr. Graham has down for that. Mr. Graham stated we have a number of projects and also we have some improvement projects and one is a new water line from Westside to the Threadmill to save us a lot of money in the long run. The second one is to put a new roof on the Katlaw building in the back of the Threadmill. Purchase some new maintenance equipment. We would end up having about six hundred thousand to upgrade all additional parks. Resurfacing and restriping the parking lot at Collar Park and Legion Park and re-doing tennis courts and we defined certain projects but at the end we left it to upgrade every park in Austell. We would have about six hundred thousand so we went around and looked to see what needed to be done for that amount of money. It's hard to find out with that amount of money which is about 1.7 million dollars and so we tried to look at what we could and make it general so when it is approved we will have some leeway on half of it and how we can spend half of it as the projects come up. Also, to have that money as it accumulates over the years. The green space the city is acquiring the money will go to the passive areas for the green space. We are real excited and we hope to get the money to put it to good use. Mayor Jerkins stated it puts over a million dollars into the city and budget to do things that we normally would not have. The good thing about sales tax about thirty percent of it is paid from people coming from other counties into Cobb and it helps out our budget. We couldn't afford to do some things if we don't get it. Mayor Jerkins stated if you want to vote on this tonight or otherwise we will have a special meeting before the 23<sup>rd</sup> of November.

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*Mr. Thomas moved to follow the recommendation to grant Mayor Jerkins the authority to execute the SPLOST Agreement so long as it is in substantial compliance with the draft we have before us tonight. Seconded by Ms. Causey. Motion passed (5-0).*

**15. MAYOR'S REPORT**

A. CMA MEETING	NOVEMBER 9, 2010
TIME:	6:30 P.M.
LOCATION:	MARIETTA

Mayor Jerkins asked if anyone had anything to report. Ms. Anderson stated she had one comment. On Saturday evening at 5:00 P.M. under Valerie Anderson's coordination the Pine Street Park had a big Halloween Festival and about seventy-five to a hundred people were there and I meant to bring pictures but I didn't get any from anyone as of yet. It was very successfully and there were a lot of kids dressed-up and they had a wonderful time. They wrapped it up about eight thirty and I just want to thank Mr. Graham personally for fixing up that park and everyone enjoyed it very much.

**16. ADJOURN**

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