

**MINUTES OF THE
REGULAR COUNCIL MEETING
CITY OF AUSTELL
NOVEMBER 3, 2014**

Present: Mayor Joe Jerkins
Kirsten Anderson
Randy Green
Virginia Reagan
Suzanne Thomason

Absent: Ollie Clemons
Chief Tim Williams

The regular meeting of the Mayor and Council was held on Monday, November 3, 2014 at 7:00 P.M. at City Hall.

Also present were: Scott Kimbrough, City Attorney; Carolyn Duncan, City Clerk; Sandra Farmer, Deputy City Clerk; General Administration; Randy Bowens, Public Works Director; Jim Graham, Community Affairs Director; Denise Soesbee, Finance Director; Bob Starrett, Police Chief.

1. CALL TO ORDER

Mayor Jerkins called the meeting to order. Associate Pastor Greg Rast gave the Invocation and Mayor Jerkins led the Pledge of Allegiance.

Mayor Jerkins asked if anyone would like to add items to the Agenda. Mr. Thomas stated he would like to add 12A. – Christmas Lighting.

Ms. Anderson moved to follow the recommendation of Mayor Jerkins to approve the Item added to the Agenda. Seconded by Mr. Thomas. Motion passed (5-0).

Mayor Jerkins presented a Plaque to Jennifer Vivar for her twenty-five (25) years of service to the City of Austell. Mayor Jerkins stated Ms. Vivar had been a great employee and thanked her for her efforts and hard work.

Mayor Jerkins also presented a five (5) year Pin to Stewart Tucker, Street Division and a five (5) year Pin to Mike Williams, Street Division. Mayor Jerkins thanked both of them for their hard work and 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 \$1,805.00
- C. Approve Minutes of Regular Council Meeting October 6, 2014

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

4. EXCEPTION TO CONSENT AGENDA

5. CITIZENS REPORT

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

**6. GAS SYSTEM REPRESENTATIVE
JOE JERKINS**

Mayor Jerkins stated he attended the meeting and it was a normal meeting and the gas prices had come down just a little bit.

**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

C. Underage Alcohol Sale Hearing – Sweetwater Bar-B-Que

Ms. Reagan stated Sweetwater Bar-B-Que is going to be torn down, so what do we do with this Mr. Kimbrough. Mayor Jerkins stated they have closed the business. Mr. Kimbrough asked if they had closed the business down completely.

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Mayor Jerkins stated yes, they have and they are tearing the building down. Mayor Jerkins stated this can be dismissed because they do not intend to open again.

Mr. Thomas moved to follow the recommendation of Mayor Jerkins to dismiss Sweetwater Bar-B-Que because it is closing the business and the building to be torn down. Seconded by Mr. Green. Motion passed (5-0).

D. Underage Alcohol Sale Hearing – Marathon

Ms. Reagan stated I would like to turn this over to Mr. Kimbrough for a Public Hearing. Mr. Kimbrough stated at this time I would like to call for a Public Hearing of the matter dealing with Marathon located at 5184 Austell Road for underage alcohol sales. Mr. Kimbrough asked who was present to speak on behalf of the City of Austell. Chief Starrett stated his name and stated he was present on behalf of the City of Austell. Mr. Kimbrough asked who was present on behalf of the Marathon. Mr. Kimbrough asked both to stand and be sworn in. Mr. Kimbrough swore in both parties. Mr. Kimbrough asked Chief Starrett to go ahead.

Chief Starrett stated on June 19th 2014, we did an alcohol underage compliance check at the Marathon. We had an employee there who actually sold to an underage person. They have been to court on it and pled nolo on it on August 7th 2014. It has been disposed of as far that court goes. Chief Starrett stated he wasn't sure who this man was with the Marathon. The gentleman stated he was the owner. Chief Starrett stated this gentleman was not the man that sold the alcohol to the underage minor. Mr. Kimbrough asked if anyone had any questions of Chief Starrett. Councilman Green asked if you have any violations on the License. Chief Starrett asked Ms. Reagan if she showed any violations on this License. Ms. Reagan stated she did. Ms. Reagan stated on May 2, 2011 they received three (3) months probation. That is all I have on them but usually we wait five years without any kind of conviction. Mr. Thomas asked if they were the same owners. Mr. Kimbrough asked if anyone had any more questions of Chief Starrett. No one did.

Mr. Kimbrough asked the owner of Marathon to state his name. He stated his name was Shamsuddin Nassar. Mr. Kimbrough asked Mr. Nassar if he was the owner of the Marathon and is the license in your name. Mr. Nassar stated yes, he was the owner and the license was in his name. Mr. Kimbrough asked Mr. Nassar to go ahead and talk to the Council.

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Mr. Nassar stated obviously he wasn't there at the time this happened. The employee has been working for us a while. The Police do visit the store regularly. The last four or five times they have appreciated his efforts as far as not selling alcohol to a minor. According to him the store was really busy and they had significant traffic that he is not used to. He made a mistake and I think he went to the court on his own. Usually, the first time on the alcohol policy we terminate the employee for this violation but in this case we did not terminate him because with this particular gentleman he has been working for us for a long time and we always had an appreciation for him and the Police. The last four times the Police have tried to catch him selling to a minor and it didn't work on him. He stated this time it was because of the rush in the store and he made a mistake. Mr. Nassar stated he was not there to witness it and I am just saying what he told me. We do usually terminate on the first time but we have warned him of our alcohol policy. Ms. Anderson stated her questions were the same as Mr. Thomas. How long have you been the owner and were you the same owner in 2011. Mr. Nassar stated he had been owner for about four or five years but I don't know what that violation was. Ms. Reagan stated that violation was Underage Alcohol Sales. Mr. Nassar stated he thought that was under different management it wasn't us. Mr. Nassar stated he knew he had been before Mayor and Council. Ms. Reagan stated we put you under three month's probation. Mr. Nassar stated it was under different management. They were looking at the business and studied it to buy. Mayor Jerkins asked whose name the business license was in. Mr. Nassar stated he assumed it was him. Mayor Jerkins stated when the license is in your name it goes against you not someone else and you have to take this into consideration. Mr. Nassar stated he understood. Chief Starrett stated this is the second offense in the last five years. Chief Starrett stated the first five years you got three (3) months probation. Mr. Green stated in that three months if you sold you would not have a business license at that point. Mr. Nassar stated we let the other people observe the business as long as they wanted too because we didn't want it to affect our business if they didn't buy it. I guess they went elsewhere and I have five other stores in Cobb County. Mr. Green stated we need to take this really serious because they are kids and if something happened like one of them gets out and kills someone in a car it is not a good thing. Mr. Nassar stated he understood and he would not want anyone doing that to his kids or nephews. My nephews are eighteen and nineteen and I am scared of them too. It is unfortunate that some of the employees do this and we train them and train them to no avail. Mr. Green stated there are machines and calendars. Mr. Nassar stated we do have that. We cannot sell beer unless you put the date on there. Obviously, our I.D.'s do not have scanners some of the Georgia I.D.'s you cannot scan. Mr. Green asked Mr. Nassar if he had a calendar where it changes dates and tells you.

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Mr. Nassar stated there is a key to ring up the beer and you punch it in and it asks for the date of birth. It asks for date of birth for beer and tobacco. This has been working for awhile and they are doing their job which has always been fine. When they do outstanding we give the employee an award or a bonus. Even if it is a first offense they are gone. This employee has been with us for a long time and we chose to keep him. Mr. Kimbrough asked if anyone had any questions of Mr. Nassar. Ms. Anderson stated she had a question for the Chief. In order for this person to have pleaded nolo it had to be his first offense, correct. Chief Starrett stated actually it is up to the Judge. Mr. Kimbrough stated using nolo is every five years. Mr. Kimbrough said we really don't know what his criminal history is but we do know he is eligible to use a nolo because Judge Darden allowed it. Ms. Anderson thanked Mr. Kimbrough. Mr. Kimbrough asked if anyone else had any questions for Mr. Nassar or Chief Starrett. Mr. Kimbrough stated we need a motion to close the public hearing.

Mr. Thomas moved to follow Mr. Kimbrough's recommendation to close the Public Hearing. Seconded by Ms. Anderson. Motion passed (5-0).

Ms. Reagan moved to follow the recommendation of the Police Committee to give Marathon located at 5184 Austell Road six (6) months probation for the violation. Seconded by Ms. Anderson. Motion passed (5-0).

Mayor Jerkins asked Mr. Nassar if he understood the recommendation of the six months probation. Mr. Nassar stated he just wanted to know what this meant. Mayor Jerkins stated to Mr. Nassar stated that if he sells again to a minor during the six months probation your License will be automatically pulled. Mr. Kimbrough stated to the Mayor, if he sells to a minor. Mayor Jerkins stated yes, to a minor. Mr. Nassar stated so this is anyone who is an employee of the store. Mayor Jerkins stated yes, anyone who sells to an underage minor in that six month period they will pull your License. Mr. Green stated you have already had two violations and you must take this seriously. At some point we cannot have these violations going on. Mr. Nassar stated he understood.

E. Underage Alcohol Sale Hearing – Texaco

Mr. Kimbrough stated at this time I would like to call for a Public Hearing for the matter of Underage Alcohol Sales located at the Texaco located at 2671 Jefferson Street in Austell, GA. Mr. Kimbrough asked who will speak on behalf of the City of Austell. Chief Starrett stated he would. Mr. Kimbrough asked who would speak on behalf of Texaco. Mr. Kimbrough swore in both parties.

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Chief Starrett stated we did an alcohol compliance check on June 19, 2014 at the Texaco along with the other businesses and they sold alcohol to a minor. Mr. Kimbrough asked if anyone had any questions of Chief Starrett. Mr. Green asked if there were any past violations on his license. Chief Starrett stated did not see any. Ms. Reagan stated not any violations since the year 2000. Mr. Kimbrough asked the owner of the Texaco to please state his name. The gentleman stated his name was Mussie Asmerom. Mr. Kimbrough and you are the owner. Mr. Asmerom stated he was part owner. Mr. Kimbrough asked Mr. Asmerom if the license was in his name. Mr. Asmerom stated no it was in his brother's name. Mr. Kimbrough asked and what is his name. Mr. Asmerom stated his brother's name is George Yohnnes. Mr. Kimbrough asked if he was the other owner. Mr. Asmerom stated, yes he is. Mr. Kimbrough told Mr. Asmerom to tell the Council what he would like for them to hear.

Mr. Asmerom stated we have been at this location almost four years now. It was my fault and I take full blame for it. It was a lack of judgement on my part. In the past four years I have never violated any laws, regulations are rules and this has never happened to me and this is the first time. I guarantee it will not happen again. Mr. Kimbrough asked if anyone had questions of Mr. Asmerom. No one did. Mr. Kimbrough asked if anyone had any questions of Chief Starrett. No one did. Mr. Kimbrough stated we need a motion to close the Public Hearing.

Ms. Anderson moved to follow the recommendation of Mr. Kimbrough to close the Public Hearing. Seconded by Ms. Reagan. Motion passed (5-0).

Ms. Reagan moved to follow the recommendation of the Police Committee to place the business at 2671 Jefferson Street on 3 months' probation since it is their first offense. Seconded by Mr. Thomas. Motion passed (5-0).

Mayor Jerkins asked Mr. Asmerom if he understood about the three months probation for selling to a minor and if it happens again within the three months they will close the store. Mr. Asmerom stated he understood.

F. Underage Alcohol Sale Hearing - La Salsa

Mr. Kimbrough stated at this time I will call for a Public Hearing for the Underage Alcohol Sale for La Salsa Restaurant located at 2856 Veterans Memorial Highway. Mr. Kimbrough asked Chief Starrett if he would speak on behalf of the City. Mr. Kimbrough swore in both parties.

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Chief Starrett stated on June 19, 2014 we did an alcohol compliance check at La Salsa and they sold alcohol to two minors and the owner is here. Mr. Kimbrough asked if anyone had any questions for Chief Starrett. No one did. Mr. Green stated this is their first offense because they haven't been opened that long. Chief Starrett stated I believe it was the second day they opened.

Mr. Kimbrough asked the gentleman to state his name. He stated his name was Mark Hernandez. Mr. Kimbrough asked if he was the owner of La Salsa. Mr. Hernandez stated he was the co-owner. Mr. Kimbrough asked who is the other owner. Mr. Hernandez stated Donna Villanueva. Mr. Kimbrough asked whose name the alcohol license is in. Mr. Hernandez stated Donna Villanueva.

Mr. Hernandez stated like I said to the Chief Starrett they came in and at the time we were very busy and it was my fault. That day I kept telling my servers to please check I. D.'s. and that day I was too busy and I overlooked it. I have been in business for over twenty years and this is the first time this has ever happened. Ms. Villanueva made me go take a course in how to serve liquor, how to sell liquor when and when not to sell it especially to a minor. I went out and had signs made for the restaurant showing that we need I.D. or we will not serve you. These are posted all over the restaurant and I have calendars all over showing that we can't serve before this date. It was completely my fault and I will take full responsibility for it. Chief Starrett stated Mr. Hernandez did go through the alcohol and sales workshop. He also went to court and received a warning because he had completed that workshop. Mr. Kimbrough asked if anyone had any questions of Mr. Hernandez or Chief Starrett. No one had any questions.

Mr. Thomas moved to follow the recommendation of Mr. Kimbrough to close the Public Hearing. Seconded by Ms. Anderson. Motion passed (5-0).

Ms. Reagan moved to follow the recommendation of the Police Committee to place La Salsa Restaurant located at 2856 Veterans Memorial Highway on three months' probation since this is their offense. Seconded by Mr. Thomas. Motion passed (5-0).

Mayor Jerkins asked Mr. Hernandez if he understood and stated to him he was on three months' probation. Mr. Hernandez stated he understood.

G. 25 Year Pin – Jennifer Vivar

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**10. FIRE DEPARTMENT
RANDY GREEN, CHAIRPERSON
Tim Williams, Fire Chief**

A. Fire Report

**11. PUBLIC WORKS DEPARTMENT
KIRSTEN ANDERSON, CHAIRPERSON
RANDY BOWENS, DIRECTOR**

A. Adoption of 2015 Water Conservation Rate Schedule

Ms. Anderson stated it is the recommendation of the Public Works Committee to adopt the following water conservation rate increases to become effective January 1st, of each year. The governmental contractual water rate would be increased by 4 percent, or \$0.10 per 1,000 gallons. The annual water rate increase by Cobb County-Marietta Water Authority has been established for the next four (4) years.

The City's water and sewer revenue bonds have been fully retired thus eliminating the obligation for debt service coverage of 20 percent above the debt service, operations, and maintenance costs for the water system. Without the coverage factor, water rates should be adjusted upward \$0.10 per 1,000 gallons for years 2015 and 2016 and \$0.11 per 1,000 gallons for years 2017 and 2018 to recognize the latest changes to Cobb County-Marietta Water Authority's rates.

INSIDE CITY	CURRENT	PROPOSED			
		2015	2016	2017	2018
First 2,000 Gallons (Minimum Bill)	\$7.66	\$7.86	\$8.07	\$8.28	\$8.51
2,001 Gallons to 7,000 Gallons	\$3.90	\$4.00	\$4.10	\$4.21	\$4.32
7,001 Gallons to 15,000 Gallons	\$4.53	\$4.63	\$4.73	\$4.84	\$4.95
15,001 Gallons and above	\$6.43	\$6.53	\$6.63	\$6.74	\$6.85

OUTSIDE CITY	CURRENT	PROPOSED			
		2015	2016	2017	2018
First 2,000 Gallons (Minimum Bill)	\$8.16	\$8.36	\$8.57	\$8.78	\$9.01
2,001 Gallons to 7,000 Gallons	\$4.15	\$4.25	\$4.35	\$4.46	\$4.57
7,001 Gallons to 15,000 Gallons	\$4.84	\$4.94	\$5.04	\$5.15	\$5.26
15,001 Gallons and above	\$6.93	\$7.03	\$7.13	\$7.24	\$7.35

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	CURRENT	<u>PROPOSED</u>			
		<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
First 2,000 Gallons (Minimum Bill)	\$7.66	\$7.86	\$8.07	\$8.28	\$8.51
2,001 Gallons to 7,000 Gallons	\$3.90	\$4.00	\$4.10	\$4.21	\$4.32
7,001 Gallons to 15,000 Gallons	\$4.53	\$4.63	\$4.73	\$4.84	\$4.95
15,001 Gallons and above	\$6.43	\$6.53	\$6.63	\$6.74	\$6.85

Based on information from the City’s utility billing software, the average consumption for residential customers is approximately 5,000 gallons per month; therefore, the average residential customer will see an increase of \$0.50 per month for years 2015 and 2016 and an increase \$0.55 per month for years 2017 and 2018 on the utility bill. Annually, this amounts to an increase \$6.00 for 2015 and 2016 and an increase of \$6.60 for 2017 and 2018.

The rate schedule above is based on the required Metropolitan North Georgia Water Planning District’s Water Supply and Water Conservation Management Plan’s three-tiered rate structure. The purpose of this structure is to encourage water conservation.

Ms. Anderson moved to follow the recommendation of the Public Works Committee to adopt the water conservation rate schedule as stated to become effective January 1, of each year. Seconded by Ms. Reagan. Motion passed (5-0).

- B. Presentation of 5 Year Pin to Stewart Tucker – Street Division
- C. Presentation of 5 Year Pin to Mike Williams – Street Division

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

- A. Christmas Lighting (Information Only)
Mr. Thomas stated the City of Austell Parks Department is preparing for the annual Christmas Tree Lighting to be held on December 5, 2014. For several years the City of Austell Parks Department has put up lights on all the downtown buildings. The decision was made to not place Christmas lights on the downtown buildings this year because of several complaints from building and business owners. This is open for discussion.

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Mr. Thomas moved to follow the recommendation of the Parks Committee to approve Christmas lights on the businesses that would like them. Mr. Graham stated we need to say the building owners because they are the ones who have the right to say if they want Christmas lights or not. It is the building owners that are complaining not the tenants. Mr. Thomas stated for those building owners who want or they have a right to refuse. Seconded by Ms. Reagan. Motion passed (5-0).

Ms. Reagan asked Mr. Graham if he was typing a letter to send to the building owners. Mr. Graham stated what we usually do is have a Hold Harmless Agreement for the building owner. Mr. Green stated the reason he is doing this is because some of the buildings don't want lights on their buildings and as a whole the City would look great if it was one right after another. But, if you have one over here and one over there especially on the front street it will not look as uniform. What Jim is trying to do is utilize the City's property and dress them up with extra decorations and not take the lights off the buildings but makeup for it with extra decorations for the City's property. It's not because we were trying to save money or cut everything short. Mr. Thomas asked if there were any other questions for Mr. Graham. No one had any questions.

B. Collar Community Center Ice Maker

Mr. Thomas stated the City of Austell Parks Committee recommends approval of the estimate from Restaurant Solutions, Inc. in the amount of \$2,856.00 to replace the ice maker at Collar Community Center. The current ice maker is several years old and is no longer functioning. The replacement ice maker was budgeted in the FY 2015 budget under line item 100-5530-54.1200. Seconded by Ms. Reagan. Motion passed (5-0).

**13. COMMUNITY DEVELOPMENT
OLLIE CLEMONS, CHAIRPERSON
Jim Graham, Director**

A. No Report

14. ATTORNEY, DUPREE & KIMBROUGH

A. No Report

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15. MAYOR'S REPORT

- A. CMA MEETING
TIME:
LOCATION:

NO MEETING
6:30 P.M.

- B. A.A.C.I.C. Request

Mayor Jerkins stated last year we had twenty (20) churches and this year we have twenty-three churches. We are giving the churches \$1500.00/each and that comes to \$34,500.00. We have six (6) schools and we are giving them \$3,000/each and that comes to \$18,000.00. We have ten (10) families (designated by A.A.C.I.C.) @ \$300.00/each and that comes to \$3,000.00. We have seven (7) families (designated by Council) at \$300.00/each which comes to \$2,100.00. We have a Special Designation of funds for the Truancy Fund for Garrett Middle School for \$2,500.00. We have a Donation to Austell Elementary (Lunches, Field Trips, Misc.) for \$3,000.00. Veterans Memorial Park \$5,000.00 for Mr. Graham to use this money at his discretion to do what needs to be done on Phase III or whatever you want to do. The Fire Department- Bunker Gear will receive \$35,000.00 for our Fireman. The Bunker Gear is the suits they wear to go into fires and they just last so many years. Each suit costs about two thousand (\$2,000.00) dollars per Fireman. We have twenty firemen and we will apply for a grant to get six more thousand dollars to go with that. The suits are very expensive but when they use them so long they are beginning to get dangerous because they have had them a good while so this is why they need to be replaced. The last thing is all the schools will receive \$1,000/each which comes to \$6,000.00 to do with whatever they need. All of the above comes to \$109,100.00. We could spend \$111,000.00 so this is under what we could have spent. Mayor asked if anyone had any questions. No one had any questions.

Mr. Green moved to follow the recommendation to approve the A.A.C.I.C. request for funds for the above. Seconded by Ms. Anderson. Motion passed (5-0).

16. ADJOURN

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