



Meeting Minutes City Council

Thursday, March 5, 2009

6:30 PM

Council Chambers

PUBLIC WORKS COMMITTEE MEETING AT 5:30 P.M.

APPEAL HEARING AT 6:00 P.M.

Attorney Skip Mooney, representing Mr. Robert Sartin, discussed the rezoning and its denial by the MAPC. He explained Mr. Sartin closed his facility in the fall of 2008 because he was told by the City that the property was improperly zoned. He further explained in 1989 the City performed the mass annexation, which included Mr. Sartin's property that he was, at that time, renting from another owner while operating his business there. He stated under Arkansas law the land became a non-conforming use, which meant the business could continue but if the operations stopped the owner could lose the right to continue the business. Mr. Mooney noted the business never stopped being used as a waste disposal site. He explained the landfill the City owns was operating as a non-conforming use, but was rezoned in 2007 to I-2 to conform to the landfill use. He then discussed the 1989 annexation and asked the Council to allow Mr. Sartin to re-open the compost site. He noted after the ice storm Mr. Sartin was not able to dispose of the limbs and other debris using his own property, so it was a financial burden to him not to have the site open. He asked the Council to allow Mr. Sartin to re-open his business. Councilmen Gibson asked Mr. Mooney if it was true that before the mass annexation that there is no record of the property being used as a business. Mr. Mooney agreed. He added he has affidavits from people verifying Mr. Sartin has been operating that business since 1982, as well as having letters from other lawn businesses verifying it. He further discussed the annexation and the closing of Mr. Sartin's business. Councilman Frierson stated there may have been a deadline for a non-conforming use under the annexation to be rezoned. Mr. Mooney stated there is no deadline, but if the operations stopped then the business could not continue. Councilman McCall stated he was under the impression that people under the mass annexation had nine years to rezone the property. Councilman Vance explained he was on the Planning Commission at that time and the deadline may have just been a recommendation and not in the actual ordinance. He noted there was a lot of advertising at the time that if there are businesses operating as non-conforming, then they would help get the zoning changed. He noted he knows they were still doing that in 1996, which was his last year on the Council for his previous term. Councilman Hargis questioned whether the business is a problem to the people in the area under R-1.

Councilman Moore clarified the City's rezoning of the landfill. He explained the City closed the landfill and spent \$7 million so the City wouldn't open another landfill. He added it's not like the City did something for itself that the City wouldn't do for Mr. Sartin. Further discussion was held concerning the site. City Planner Otis Spriggs stated he was hired in January, 2006, and in June or July of that year he and Sanitation Director Royce Leonard visited the site with Mr. Sartin. He explained during that visit Mr. Sartin was advised to seek rezoning. He added he was not aware it was an active site because it was not stated nor were there any equipment present. He further explained Mr. Sartin, at that time, indicated he wanted to utilize neighboring for the facility, in which he informed Mr. Sartin that he would have to

rezone the property to I-2 in order to allow for the compost facility. He noted in regards to the affidavits and letters, the Planning staff has not been provided that information nor have they been able to look at it. Mr. Spriggs stated the appeal hearing is in regards to the MAPC's denial to rezone the property. Councilman Moore clarified Mr. Spriggs has not been shown legal proof that Mr. Sartin was operating the compost site before the mass annexation, which would be the basis of an appeal. Mr. Spriggs agreed and stated they need to see the documentation. He added any decision they make would be subject to appeal to the Board of Zoning Adjustment. He explained he has spoken with City Attorney Phillip Crego concerning the matter. Further discussion was held concerning the site and its use before the mass annexation. Mr. Crego stated all that is before the Council with the hearing is the appeal because of the denial of the rezoning. He added non-conforming use is not included in that request. He explained the question of the non-conforming use is a separate issue, which can be presented to the Board of Zoning Adjustment.

Councilman Gibson questioned the timeline, asking how far back the license goes. Mr. Robert Sartin explained they started dumping at the site and using it as a compost site. He further explained he got a license from ADEQ in 1997 after the City instructed him to get one. He added he was never told to rezone the property. He stated he has met all the rules on the facility since 1982 Mr. Sartin continued to discuss his property and the use of it. He noted the houses that are complaining about his compost facility were built after his facility was in use. He further added he is not adding to his facility and is not asking for anything more. He explained he just wants to rezone the property. Councilman Hargis questioned whether there is an odor problem with green composting. Mr. Sartin answered no, that he's never received complaints about odors.

Mr. Mike Ledbetter, 612 West Washington, spoke in opposition to the facility. He stated the homes that were built around 2000 are not the only ones complaining about the facility. He added there are people who have lived in the area for many years that are opposed to the facility. He explained Mr. Sartin wants to rezone to I-2 to not only take care of his own business' composting, but to also bring in other business to his composting site.

Mr. William Budd, 2086 Casey Springs Road, also spoke in opposition to the facility. He explained if Mr. Sartin was renting the property before the annexation, when he purchased the property he should have had taken the responsibility of rezoning it. He further explained there is no advertising stating a business is on the compost facility site and if it's run right, then there should be machines running all the time. He asked the City Council to consider that when making their decision.

Mr. Howard Cargill, 2813 Casey Springs Road, spoke in opposition to the facility. He stated he was expecting a different presentation than the one given by Mr. Sartin tonight because it left out some details of things that had been done illegally by Mr. Sartin that he was caught doing. He agreed with Mr. Budd, saying he hasn't seen any trucks going into the business and he's been living in the area for four years. He further explained there is no space or buffer between the property and the subdivision as Mr. Sartin indicated earlier. Mr. Cargill stated money is what this is all about.

Mr. Derek Falls, 2812 Nottingham Way, reiterated that Mr. Sartin did not receive his permit from ADEQ until 1997. He noted if Mr. Sartin did not receive his permit until 1997, but was operating a compost site since 1982, then from 1982 to 1997 he was operating the facility unpermitted. He questioned how an unpermitted compost site could be grandfathered in. He added there is no evidence Mr. Sartin had a legal compost site before 1997. He provided the Council with aerial photographs of the

area. He discussed when Mr. Sartin was gravel mining the site and stated he was being woken up every morning by the machinery because they were working only 30 yards from his house. He discussed the photographs and stated Mr. Sartin continued gravel mining the area even after the City asked him to stop. He further explained Mr. Sartin didn't stop gravel mining the area until Mr. Crego got involved.

Mr. Bob Wright, 2818 Casey Springs Road, also spoke in opposition and noted he has lived in his house since 1983. He stated there are concrete blocks, oil drums and grease cans on an adjoining vacate lot that could become part of the compost site.

Mr. Reginald Holland, 2813 Nottingham Way, explained Mr. Sartin held a meeting concerning the compost site for some of the people in the area. He asked Mr. Sartin at the meeting whether he would want to live next to a compost facility and Mr. Sartin did not answer him. He then questioned what the compost facility would do to the value of the homes in the area.

Mr. Sartin stated he is not trying to hurt the community, but he has over 60 families that need a check every week. He explained he did not know he was mining illegally in Phase II of the property and have not been on the property since they quit mining there. He added he has been told he cannot take any equipment into that area to clean it up. He further explained the 14 acres is a buffer and he will not be touching that land. He disagreed Mr. Wright, stating there are no oil cans on the facility. Mr. Sartin explained they dump at the City landfill every week. He stated from 1982 to 1997 he was not aware that he needed a license, which is why he did not receive one until 1997. He further explained he understands the concerns of the home owners, which is why he's willing to leave the buffer area.

1. Call to order by the Mayor at 6:30 P.M.

2. Pledge of Allegiance and Invocation

3. Roll Call by the City Clerk

Present 12 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson; Rennell Woods and Mikel Fears

4. Special Presentations

Proclamation and Key to the City presentation to former City of Jonesboro Mayor Hubert Brodell for his numerous years of service

Mayor Perrin read the proclamation for Mr. Brodell and presented him with a Key to the City.

ORD-09:013 AN ORDINANCE TO AMEND TITLE 14 KNOWN AS THE ZONING ORDINANCE PROVIDING FOR THE CHANGE IN ZONING BOUNDARIES FROM RESIDENTIAL R-1 TO INDUSTRIAL I-2 LUO FOR PROPERTY LOCATED DIRECTLY WEST OF 2914 CASEY SPRINGS ROAD AS REQUESTED BY ROBERT SARTIN

Attachments: [Plat](#)
[MAPC Report](#)
[Affidavit](#)
[Application for Zoning Ordinance Map Amendment](#)
[Appeal Letter](#)
[Warranty Deed](#)
[Letter from Attorney Skip Mooney](#)
[MAPC Staff Report dated September 18, 2007](#)
[ADEQ Permit](#)
[Aerial Photography](#)
[Information Packet](#)

Councilman Moore motioned, seconded by Councilman Street, to move ORD-09:013 to the top of the agenda. All voted aye.

Councilman Street offered the ordinance for first reading by title only.

A motion was made by Councilman Chris Moore, seconded by Councilman Jim Hargis, that this matter be Postponed Temporarily . The motion PASSED by an unanimous vote

Aye: 12 - Darrel Dover;Ann Williams;Charles Frierson;Jim Hargis;Chris Moore;John Street;Mitch Johnson;Tim McCall;Gene Vance;Chris Gibson;Rennell Woods and Mikel Fears

5. Consent Agenda

MIN-09:020 Minutes for the City Council meeting on February 17, 2009.

Attachments: [Minutes](#)

This item was PASSED on the consent agenda.

Aye: 12 - Darrel Dover;Ann Williams;Charles Frierson;Jim Hargis;Chris Moore;John Street;Mitch Johnson;Tim McCall;Gene Vance;Chris Gibson;Rennell Woods and Mikel Fears

6. New Business

Ordinances on First Reading

ORD-09:011 AN ORDINANCE TO AMEND THE 2009 ANNUAL BUDGET AND THE CITY PAY PLAN FOR THE CITY OF JONESBORO BY ADDING FOUR ADDITIONAL POSITIONS OF CAPTAIN TO THE FIRE DEPARTMENT, INCREASE DEMOLITIONS BUDGET IN POLICE DEPARTMENT-CODE ENFORCEMENT, AND MOVE APPROPRIATIONS FROM OUTSIDE AGENCIES TO BUILDING MAINTENANCE.

Sponsors: Finance

Councilman Dover offered the ordinance for first reading by title only.

Councilman Moore motioned, seconded by Councilman Street, to suspend the rules and waive second and third readings. All voted aye.

Councilman Johnson motioned, seconded by Councilman Dover, to adopt the emergency clause. All voted aye.

A motion was made by Councilman John Street, seconded by Councilman Chris Moore, that this matter be Passed . The motion PASSED by an unanimous vote

Aye: 12 - Darrel Dover;Ann Williams;Charles Frierson;Jim Hargis;Chris Moore;John Street;Mitch Johnson;Tim McCall;Gene Vance;Chris Gibson;Rennell Woods and Mikel Fears

Enactment No: O-EN-013-2009

ORD-09:017 AN ORDINANCE TO AMEND TITLE 14 KNOWN AS THE ZONING ORDINANCE PROVIDING FOR THE CHANGE IN ZONING BOUNDARIES FROM AGRICULTURE AG-1 TO RESIDENTIAL RS-6 LUO FOR PROPERTY LOCATED AT THE REAR OF 3700 FLEMON ROAD ON THE NORTH SIDE OF FLEMON ROAD AS REQUESTED BY TURMAN CONSTRUCTION CO.

Attachments: [Plat](#)
[MAPC Report](#)

Councilman Vance offered the ordinance for first reading by title only.

Councilman Moore asked to hold the ordinance at first reading.

This matter was held at one reading.

Aye: 12 - Darrel Dover;Ann Williams;Charles Frierson;Jim Hargis;Chris Moore;John Street;Mitch Johnson;Tim McCall;Gene Vance;Chris Gibson;Rennell Woods and Mikel Fears

7. Unfinished Business

8. Mayor's Reports

Mayor Perrin thanked the Council for allowing he and City Clerk Donna Jackson to attend the recent Chamber of Commerce trip to Washington DC. He explained they met with the chief of staffs of each delegation, while also meeting individually with some of the delegations. He discussed the Washington trip and what was accomplished for the City of Jonesboro. He added he has met with Mr. Dan Flowers from the Arkansas Highway and Transportation Department concerning the funds from the stimulus package and projects that can take place. He noted they have been notified of additional funding through CBDG and will be applying for more grants through the counties and mayors in this area of the State.

Mayor Perrin then discussed the debris pickup. He stated as of February 28th the debris removal company had picked up 133,734 cubic yards. He noted the estimated amount in the contract was only 100,000 cubic yards, but he anticipates the debris to possibly exceed 250,000 cubic yards. He explained the money spent will be refunded by FEMA, with the exception of 12.5 cents on the dollar. He further explained they anticipate the City being reimbursed for the use of their equipment and the overtime spent immediately after the storm by the Street Department. He stressed that March 22 is the last day for citizens to put debris on the curb to be picked up.

COM-09:025 Project list as provided by Mayor Perrin to the City Council on March 5, 2009.

Attachments: [Project List](#)

This item was Read.

COM-09:024 MPO presentation as given by Amin Ulkarim to the City Council on March 5, 2009.

Attachments: [MPO presentation](#)
[MPO presentation - PDF](#)
[MPO Brochure](#)

MPO Director Amin Ulkarim discussed the MPO and what they do.

Councilman Hargis questioned whether the MPO can help with projects such as sidewalks or southern/northern bypasses. Mr. Ulkarim explained federal funding cannot be spent unless the MPO verifies the projects are needed by doing studies and requesting funding. Mayor Perrin noted the MPO is a conduit, in that the City could not get federal funding without it. He added the MPO will have input in the Master Street Plan, as well as assisting with the stimulus package.

This item was Read.

9. City Council Reports

Councilman Street motioned, seconded by Councilman Dover, to add a resolution to the agenda. All voted aye.

RES-09:034 A RESOLUTION TO THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO A CONTRACT WITH EXPRESS SERVICES, INC. TO PROVIDE STAFFING NEEDS FOR MONITORING AND OTHER RELATED SERVICES RELATED TO DEBRIS REMOVAL RESULTING FROM THE ICE STORM OF 2009;

Attachments: [Express Agreement](#)

A motion was made by Councilman John Street, seconded by Councilman Chris Moore, that this Resolution be Passed. The motion CARRIED by a Voice Vote.

Aye: 12 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson; Rennell Woods and Mikel Fears

Enactment No: R-EN-020-2009

Councilman Johnson asked for an update concerning the Street and Sanitation facility. Mayor Perrin explained they have identified property to purchase and the owners have accepted the offer. He further explained the City was able to purchase the property for lower than anticipated. He stated he will be sending to Council the exact dollar amount. Mayor Perrin also explained there is a possibility of purchasing additional property for future growth. He also discussed possibly putting JETS in the same location by using federal grant monies. He stated the Building Committee will be looking at the property to see what else can be located there.

Councilman Woods questioned whether Mayor Perrin was able to meet President Obama during the Mayor's recent trip to DC. Mayor Perrin answered no, he was not able to meet the President and missed the tour of the White House because he was working. He also congratulated Councilman Woods on his accomplishments with CityYouth Ministries. Councilman Vance noted past City and County governments were also instrumental in CityYouth Ministries.

10. Public Comment

Mr. Rick Tribble, 3120 Casey Springs Road, discussed his property by the old landfill. He stated they have constant health problems due to the landfill and it's not a safe

environment to live in. He added he thinks the methane gas migrated to their property. He noted they have researched the issue on the internet and their property is closer to the landfill than what is recommended. He asked the Council to consider having the City purchase his property due to the problems. Mayor Perrin stated he will visit with the Public Works Director and meet with Mr. Tribble.

11. Adjournment.

A motion was made by Councilman Chris Moore, seconded by Councilman Mitch Johnson, that this meeting be Adjourned. The motion CARRIED by a Voice Vote.

Aye: 12 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson; Rennell Woods and Mikel Fears

_____ **Date:** _____
Harold Perrin, Mayor

_____ **Date:** _____
Donna Jackson, City Clerk