



# City of Jonesboro

900 West Monroe  
Jonesboro, AR 72401

## Meeting Minutes City Council

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Tuesday, November 16, 2010

6:30 PM

Huntington Building

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### PUBLIC SAFETY COMMITTEE MEETING AT 4 P.M.

#### 1. CALL TO ORDER BY MAYOR PERRIN AT 6:30 P.M.

#### 2. PLEDGE OF ALLEGIANCE AND INVOCATION

#### 3. ROLL CALL BY CITY CLERK DONNA JACKSON

**Present** 11 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson and Mikel Fears

**Absent** 1 - Rennell Woods

#### 4. SPECIAL PRESENTATIONS

**COM-10:126** Proclamation to Bill Pressly, Paul Carter and Jack Turner for the Downtown Jonesboro BBQ Contest

**Sponsors:** Mayor's Office

*Mayor Perrin stated the proclamation will be held until the next City Council meeting. He added the barbecue festivities were well attended and things went well. He expressed his appreciation to Councilman Tim McCall, Mr. Jack Turner and all of the others who worked to put the event together.*

#### 5. CONSENT AGENDA

##### *Approval of the Consent Agenda*

**A motion was made by Councilman Chris Moore, seconded by Councilwoman Ann Williams, to Approve the Consent Agenda with the exception of RES-10:142. A motion was made that these files be approved by consent voice vote**

**Aye:** 11 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson and Mikel Fears

**Absent:** 1 - Rennell Woods

**MIN-10:105** Minutes for the City Council meeting on November 4, 2010.

This item was **PASSED** on the consent agenda.

**RES-10:127** A RESOLUTION TO THE CITY OF JONESBORO, ARKANSAS AUTHORIZING THE MAYOR AND THE CITY CLERK TO ACCEPT THE PROPERTY DONATED BY CHARLES RILEY & LISA MARKS, DOING BUSINESS AS RILEY & MARKS PROPERTIES, ALSO KNOWN AS R & M PROPERTIES

**Sponsors:** Engineering

This item was **PASSED** on the consent agenda.

Enactment No: R-EN-108-2010

**RES-10:141** A RESOLUTION TO THE CITY OF JONESBORO, ARKANSAS TO APPROVE CHANGE ORDER #1 WITH BAILEY CONTRACTORS, INC. FOR THE CONSTRUCTION OF THE CITY OF JONESBORO - VEHICLE MAINTENANCE FACILITY - JOB NO. 2010:23

**Sponsors:** Engineering

This item was **PASSED** on the consent agenda.

Enactment No: R-EN-109-2010

## **6. NEW BUSINESS**

**RES-10:142** RESOLUTION TO ADOPT A REVISED SUBSTANCE ABUSE TESTING PROGRAM POLICY FOR JETS

**Sponsors:** JETS and Human Resources

*Councilman Moore asked that the item be held temporarily until it can be reviewed by the Public Services Committee.*

**A motion was made by Councilman Chris Moore, seconded by Councilman Gene Vance, that this matter be Postponed Temporarily . The motion PASSED by a unanimous vote**

**Aye:** 11 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson and Mikel Fears

**Absent:** 1 - Rennell Woods

### **ORDINANCES ON FIRST READING**

**ORD-10:086** AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES FROM R-2 AND R-3 TO C-3 LUO FOR PROPERTY LOCATED AT 1504 STADIUM BLVD AS REQUESTED BY EVERS BROWN

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

*Councilman Moore questioned whether there had been any opposition to this rezoning. City Planner Otis Spriggs indicated there was no opposition.*

**A motion was made by Councilman Chris Moore, seconded by Councilman John Street, to Waive Second Reading . The motion PASSED by a unanimous**

**vote**

**Aye:** 11 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson and Mikel Fears

**Absent:** 1 - Rennell Woods

**7. UNFINISHED BUSINESS****ORDINANCES ON SECOND READING****ORD-10:082**

AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES FROM R-1 TO C-3 FOR PROPERTY LOCATED AT THE SOUTHEAST INTERSECTION OF INDUSTRIAL AND PARKER ROAD AS REQUESTED BY MATT VALENTINE

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

**A motion was made by Councilman Chris Moore, seconded by Councilman Darrel Dover, that this matter be Passed . The motion PASSED by a unanimous vote**

**Aye:** 11 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson and Mikel Fears

**Absent:** 1 - Rennell Woods

Enactment No: O-EN-058-2010

**ORDINANCES ON THIRD READING****ORD-10:083**

AN ORDINANCE TO AMEND TITLE 14 KNOWN AS THE ZONING ORDINANCE PROVIDING FOR THE CHANGE IN ZONING BOUNDARIES LOCATED AT 2206, 2212, 2200 STADIUM BOULEVARD; 3004, 3008 AND 3010 PARKWOOD ROAD, 3009 AND 3011 SUN AVENUE AS REQUESTED BY MIKE EBBERT/GLEN TALLEY

*Mr. Kent Arnold, representing the land owners, discussed the rezoning. He noted the original ordinance has been amended to refer to only the lots related to the Panera Bread development. He noted he spoke with a nearby land owner, Mr. Bill Alexander, who had expressed some concerns that the amendment would go across to his property. Mr. Arnold explained Mr. Alexander lives on Sun Avenue, but the corner of Sun Avenue and Stadium Boulevard will not be affected. He then asked for approval for the café/bakery with a drive-thru window.*

*Councilman Moore asked Mr. Arnold to address the emails that had been presented to the Council members. Mr. Arnold stated the person who wrote the emails is a competitor and this person is also trying to get Panera Bread on their property. He noted he has been speaking with the president of Panera Bread and he is not sure the competitor will be prepared to develop their site in order for the company to build on. He explained the other site was located on the current fairground property.*

*Councilman Gibson read a second email from Rick Postle, owner of the company that owns the Panera Bread chain, discussing the drive-thru window. He stated based on what the email says, it sounded to him like Panera's drive-thru is going to be like a fast food drive-thru window. Mr. Arnold explained a large portion of the*

*business at the drive-thru window is pick-up and the menu board will not display the full menu. He further explained Panera is a café/bakery that uses a window as an ancillary service.*

*Councilman Dover questioned if the Council passes the ordinance and then Panera decides to go elsewhere, if they have opened the door for a fast food restaurant, such as McDonald's, to be developed on the property. Mr. Arnold noted he is not asking for a general restaurant with a drive-thru; rather, he is asking for a café/bakery with a drive-thru. Councilman Moore pointed out the City does not have a definition for a café/bakery in the zoning ordinance. Mr. Arnold stated he is asking for the café/bakery to be added to the C-3 LUO.*

*Mr. Arnold explained he has been transparent in asking for the rezoning for Panera Bread and due to that transparency the competitors have been veracious in trying to get Panera on their property instead of his. He further explained it had been indicated to him by someone on the Fair Board that they are not able to sell a piece of the fairgrounds, which would inhibit them from selling a portion of the land to build a Panera Bread. He further discussed the Panera Bread development.*

*Discussion was then held regarding the emails from Rick Postle. Councilman Fears reiterated the concerns of Councilman Moore that there is no definition for a café/bakery, so the property could be open for businesses like McDonald's to run a drive-thru window.*

*Mr. Spriggs noted Section 2 of the ordinance does specify the property is being amended to allow for a café/bakery. Councilman Moore then questioned what the zoning ordinance specifies is a café/bakery. Mr. Spriggs answered there is no definition for a café/bakery in the zoning ordinance, but the proposed ordinance will allow for a café/bakery for this particular piece of property. He further explained staff is suggesting going back and revisiting the fast food definition versus the general definition to make sure this problem does not occur again.*

*Further discussion was held concerning Mr. Postle's email detailing the drive-thru window. Mr. Arnold questioned where the emails came from. Councilman Gibson stated he handed them out at the meeting tonight and they were delivered to him. Mr. Arnold noted the emails do not state the competitor's name. Councilman Moore expressed concern that the emails indicate Panera's #1 option is not Mr. Arnold's property. Mr. Arnold stated that just because Panera may have a different first option, that doesn't mean it is attainable. He added he spoke with Mr. Postle over the weekend and asked Mr. Postle if he should continue with the rezoning and Mr. Postle answered yes. He further explained Mr. Postle told him his first choice is the fairground property, but a letter of intent was signed with him and there would be no letter of intent with Panera until after tonight's Council meeting. Mr. Arnold expressed concern about the negative press that has come out during this rezoning and the politicking against him that has taken place. He added the extra time it has taken to get the property rezoned to allow for Panera is opening the door for his competitors to take the business.*

*Councilman Fears questioned whether there is a way to specify the property to be rezoned for Panera, but if another business were to open there that it would go back to the original zoning. City Attorney Phillip Crego stated he doesn't think the Council can legislate for a particular business.*

*Additional discussion was held concerning the rezoning. Mr. Spriggs noted the proposed ordinance did not strike the fast food restriction and this ordinance will not affect the actual zoning ordinance.*

City Attorney Crego noted the proposed ordinance is the same as what was read at the last meeting and has not yet been amended to allow for a café/bakery.

Councilman Moore reiterated his concerns about allowing for a café/bakery when that is not defined in the zoning ordinance. Mr. Spriggs stated the Council can specify what uses to allow due to the limited uses. He also noted the site plans for whatever business will be on the property still have to be approved by the MAPC. He added the Council can add a definition for the café/bakery in Section 2 of the ordinance. Councilman Frierson stated the basic issue is the business at the drive-thru window.

Councilman Dover motioned, seconded by Councilman Fears, to hold a five-minute recess in order for Mr. Spriggs to write a definition for a café/bakery. All voted aye.

Councilman Street motioned, seconded by Councilman Dover, to reconvene the meeting. All voted aye.

Councilman Dover motioned, seconded by Councilman Moore, to amend the proposed ordinance to include the new Section 2 verbiage as provided by Mr. Spriggs and City Attorney Crego. Councilman Johnson asked for clarification as to whether he should abstain from voting and discussion due to holding the position of the assistant fair manager, but he has not been contacted by the Mr. Josh Brown that is referenced in Mr. Postle's emails. City Attorney Crego recommended Councilman Johnson abstain if his position on the fair board could profit due to a negative vote on the proposed ordinance. All voted aye, with the exception of Councilman Vance and Councilman Johnson who abstained from discussion and voting.

City Attorney Crego read the ordinance for the third time.

After the passage of the ordinance, Councilman Street motioned, seconded by Councilman Moore, to adopt the emergency clause. All voted aye.

**A motion was made by Councilman Darrel Dover, seconded by Councilman John Street, that this matter be Passed . There were six aye votes and three nays. Because a majority vote was needed, Mayor Perrin voted aye in order to pass the measure.**

**Aye:** 6 - Darrel Dover; Ann Williams; Jim Hargis; John Street; Tim McCall and Mikel Fears

**Nay:** 3 - Charles Frierson; Chris Moore and Chris Gibson

**Absent:** 1 - Rennell Woods

**Abstain:** 2 - Mitch Johnson and Gene Vance

Enactment No: O-EN-059-2010

## **8. MAYOR'S REPORTS**

Mayor Perrin reported on the following items:

He welcomed to the meeting Mrs. Bonnie Thrasher's news reporting class.

The budgets are being prepared and they hope to distribute them to the Council this Friday.

They are still discussing the non-uniform pension plan and as soon as the details are put together he'll share them with the Council.

**9. CITY COUNCIL REPORTS**

*Councilman Street congratulated Mayor Perrin on the birth of his new grandson. Mayor Perrin thanked Councilman Street and added everyone is doing fine.*

*Councilman Moore congratulated Councilman McCall for the barbecue fest. He also asked if Mayor Perrin could somehow speed up the repair going on at the intersection of Cherry and Madison. He added the street is pretty narrow.*

**10. PUBLIC COMMENTS****11. ADJOURNMENT**

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

**Aye:** 11 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson and Mikel Fears

**Absent:** 1 - Rennell Woods