



City of Jonesboro

Meeting Minutes

City Council

900 West Monroe
Jonesboro, AR 72401

Monday, July 30, 2007

4:45 PM

Council Chambers

Special Called Meeting

1. Call to order by the Mayor at 4:45 P.M.

2. Roll Call by the City Clerk

Present 11 - Judy Furr; Darrel Dover; Faye McCall; Ann Williams; Cecil Province; Jim Hargis; Chris Moore; Harold Perrin; John Street; Mitch Johnson and Tim McCall

Absent 1 - Charles Frierson

3. New Business

Discussion concerning P&J Development lawsuit

Mayor Formon stated he was served with the lawsuit on the morning of May 15. He explained their temporary worker, Rick, was instructed to make sure the document was given to the City Attorney's office and to APERMA Attorney Ralph Ohm's office. Mayor Formon stated somehow there was a breakdown which caused the office not to get the paperwork out in a timely fashion. He added the next time he heard about it was from City Attorney Phillip Crego, who informed the Mayor the City was in default with the lawsuit. Mayor Formon then stated he contacted Mr. Ohm's office to see if they filed a response, which they had not. He further explained they put together a response and sent it in, but the judge ruled the City was in default.

Councilwoman Williams stated the meeting was not called to determine the merits of the lawsuit; rather, the meeting was called to determine why the lawsuit resulted in a default judgment. She added she would like to know why a timely response was not filed, why the Council was not notified of the court's ruling and why they learned of the default judgment in the paper. She discussed the timeline of events and noted the court complaint was filed on May 9, Mayor Formon signed the waiver of service on May 15, the deadline for response was June 5, then P&J Development filed a motion for default on June 25 which resulted in a default judgment on July 23.

Mayor Formon explained he would like to put together a short-term committee to put together a policy to make sure this kind of event doesn't happen again. He also noted that from the beginning they felt like they didn't have a legal leg to stand on. He further explained though he did not hear anything else about the lawsuit after signing the paper, he thought Mr. Ohm's office was handling the case. Mayor Formon stated they had discussed whether an appeal was needed. Councilwoman Williams noted there was an estimated 40 days difference between Mayor Formon signing the waiver on May 15 and the default motion being filed on June 25. She then questioned whether Mayor Formon notified the City Attorney's office or Mr. Ohm's office during that 40-day period to let them know he signed a waiver of service or to question the status of the lawsuit. Mayor Formon stated he did not contact either office because he thought the two offices were in

communication concerning the lawsuit. He added there was a breakdown whenever his administrative assistant was out taking care of her daughter in Little Rock and the temp did not get the information distributed. Councilwoman Williams expressed concern over being subject to a default judgment in a major case due to a slip up in communication caused by staff being out of the office.

Councilwoman Williams asked City Attorney Phillip Crego why a default judgment was granted against the City. Mr. Crego explained once the entity is served they have 20 days to respond. He stated the waiver of service waived any other formal service process and started the 20-day period. Councilwoman Williams questioned whether Mayor Formon contacted him to discuss the consequences of signing a waiver of service. Mr. Crego stated he did not recall any questions in that regard. He stated the first time he heard that a waiver had been signed was when he received a copy of the motion for default judgment. Councilwoman Williams then questioned if during the 40-day period Mr. Crego had opportunities for discussion with the Mayor. Mr. Crego stated yes, he did. Councilwoman Williams questioned whether the lawsuit ever came up in their discussions. Mr. Crego stated he had the only discussions he had concerning the lawsuit were general discussions with the Mayor's Office. He added that it had been previously discussed that the papers were given to his assistant, Ms. Carol Duncan, on the date they were received. He stated he checked payroll records and determined Ms. Duncan was out on sick leave on May 15 and May 16, so she could not have been given the papers. Councilman Moore questioned whether someone who is suing the City can serve the papers to someone else, like the receptionist at City Hall. Mr. Crego stated no, it is required the papers are served to the Mayor if the lawsuit is for the City of Jonesboro as a whole.

Councilwoman Furr stated that to say a lawsuit is not winnable concerned her because MAPC determined it was not a good plan for that area. She questioned if they based their decision on sound facts and data, then why did the City expect a judge to overturn the decision. She questioned if they were so sure the City would not win the case then why did the City not try to handle the problem administratively instead of making Mr. Sloan go to court. Mayor Formon stated that was what he heard from the legal staff, that they did not think the lawsuit was winnable.

Councilwoman Furr questioned why the Council has to learn about things that are going on in the City by reading about it in the newspaper. Councilman Province noted the Council had two formal meetings and numerous committee meetings without any information being disbursed to the Council. He added this is not the first time the Council has not heard about things before reading about it in the paper. Mayor Formon stated the lines of communication go two ways. He explained there are only a few Council members that have been to his office to offer information without being invited for a meeting. Councilman Province noted he has been to Mayor Formon's office a number of times and was told he was unavailable. He added he has also called tried to make phone contact and was told the Mayor would get back with him but he never heard a word.

Councilwoman McCall questioned how information can be received from MAPC so they can be informed about issues. Mr. Crego noted this particular situation was a site plan, which is determined by MAPC and does not go to the Council. Councilman Dover questioned how many default judgments the City has had. Mr. Crego said this is the first he has been involved in. Councilman Dover stated that a mistake was made and they should fix it and move on. Councilman Province explained it all goes back to letting the Council know what is going on. He further explained they cannot respond to the public in the way they should because they do not know what is going on.

Resolutions To Be Introduced

RES-07:1546 A RESOLUTION FORMALLY REPRIMANDING MAYOR DOUG FORMON AND ENCOURAGING HIM TO MAKE EVERY ATTEMPT TO IMPROVE IN ALL ASPECTS OF HIS ADMINISTRATIVE SKILLS.

Councilman Johnson questioned whether the resolution can be brought up even though it was not on the agenda. Mr. Crego stated the subject matter of the Council is limited to what the meeting was called for. Discussion was held concerning the purpose of the meeting. Councilman Moore stated he wanted to clarify that the Mayor accepted responsibility for what happened. Mayor Formon stated the buck stops with him and that it was his and his office's fault. Councilman Johnson explained he just wanted to make sure they have the right to vote on it.

Mr. Crego stated he doesn't feel the Council has the right to reprimand the Mayor. Councilman Hargis questioned what a reprimand would be. Mr. Crego stated to him it would be similar to an supervisor reprimanding an employee for his/her conduct. Councilman Province stated whatever the interpretation each one has a moral obligation to their constituents. Councilman Johnson stated he hadn't planned on saying anything until he heard the Mayor say few Council members had communicated with him. Councilman Johnson added communication has been lacking since he has been in office.

Councilwoman McCall stated she attends all the meetings so she can be informed and so she can learn the system. She added she does not get a lot of e-mails from different people and does not have real communication with people until going to a meeting. Councilman Hargis stated communication should include what is going on with the City and the employees in a timely fashion. Councilman Johnson explained he does not have any problems with the Mayor, but things need to be cleared up so they don't happen again.

Councilman Dover stated he does not want to know about what is going on every day but communication is related to the context of their responsibilities. He stated they should not make things so cumbersome for the Mayor's Office that they cannot do their own job. Councilman Moore noted when he contacted the Mayor concerning Clarke Mosquito, Mayor Formon was quick to respond. He stated he doesn't want the Mayor contacting him every day but they should be included on larger issues.

Councilman Perrin noted Mr. Crego informed them they cannot proceed on the resolution. He added that they can all work on their communications. Councilman Dover stated this might be a good reason to talk about going to a Committee of the Whole. Councilman Perrin explained he has spoken with the Mayor about that recently.

4. Adjournment.

A motion was made by Councilperson Harold Perrin, seconded by Councilperson Chris Moore, that this meeting be Adjourned. The motion CARRIED by a Voice Vote.

Aye: 11 - Judy Furr;Darrel Dover;Faye McCall;Ann Williams;Cecil Province;Jim Hargis;Chris Moore;Harold Perrin;John Street;Mitch Johnson and Tim McCall

Absent: 1 - Charles Frierson