



## Legislation Details (With Text)

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Minutes for the City Council meeting on October 17, 2006  
CITY COUNCIL MINUTES - October 17, 2006

The Jonesboro City Council met Tuesday, October 17, 2006, at 6:30 p.m. Members present were: Mayor Doug Formon, City Clerk Donna Jackson, City Attorney Phillip Crego and ten council members. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Councilman Ashley and Councilman Johnson were unable to attend.

Councilman Perrin moved seconded by Councilman Moore to approve the minutes of October 3, 2006, as delivered. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall.

The following ordinance was on the third and final reading:

ORDINANCE TO REZONE PROPERTY FROM R-1, SINGLE FAMILY RESIDENTIAL, TO R-2 MULTI-FAMILY, LOCATED AT 2204 NEEDHAM STREET. (Brian Allred)

Councilman Moore moved, seconded by Councilman Perrin for the adoption of the ordinance. Councilman Moore questioned the need for an emergency clause. City Clerk Donna Jackson explained the ordinance had originated from an outside source and if the City Council did not adopt the emergency clause it would be removed from the ordinance. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The ordinance was adopted without an emergency clause and assigned number 3671.

Councilman Moore offered the following ordinance for first reading:

ORDINANCE TO REZONE PROPERTY FROM R-2, RESIDENTIAL, TO C-5, COMMERCIAL NEIGHBORHOOD OFFICE DISTRICT, LOCATED AT 217 E. CHERRY AVE. (Joanne and Philip Steed)

Councilman Moore moved, seconded by Councilman Street to suspend the rules for the second reading. A voice

vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. No further action was taken on this particular ordinance.

Councilman Moore offered the following ordinance for first reading:

ORDINANCE TO REZONE PROPERTY FROM AG-1, AGRICULTURAL, TO R-6, LIMITED USE OVERLAY MULTI-FAMILY MEDIUM DENSITY DISTRICT RESTRICTED TO 10 UNITS PER ACRE, LOCATED ON NESTLE WAY BETWEEN HIGHLAND DR. AND C. W. POST ROAD. (Troy Coleman/Jay Harmon - Brent Crews, Attorney)

After some discussion it was determined that the property locations for Agenda Item C and Agenda Item D had been transposed on the agenda. It was explained Agenda Item C was for 28.76 acres, located on the east side of Kathleen Street, across from the Airport, and currently is a rice field to the right. Questions were raised about airport overlay and certain restrictions. Mr. Crews explained there was a height restriction, but everything was in compliance. Councilman Moore moved, seconded by Councilman Street to suspend the rules for the second reading. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. No further action was taken on this particular ordinance.

Councilman Perrin offered the following ordinance for first reading:

ORDINANCE TO REZONE PROPERTY FROM R-1, RESIDENTIAL TO R-6, LIMITED USE OVERLAY MULTI-FAMILY MEDIUM DENSITY DISTRICT RESTRICTED TO 10 UNITS PER ACRE, LOCATED ON THE EAST SIDE OF KATHLEEN STREET

Agenda Item C and Agenda Item D had been transposed and Mr. Brent Crews explained this particular rezoning was for 10.92 acres and located on Nestle Way between Highland Dr. and C. W. Post Road. Councilman Farmer raised questions pertaining to the location of the property and expressed concern with doing anything that would harm future industrial recruitment prospects. He requested input from the Industrial recruitment team. City Clerk Donna Jackson questioned if this property was located on Nestle Way or Nestle Road. Attorney Crews stated it was located on Nestle Way. Councilman Farmer moved, seconded by Councilman Street to suspend the rules for the second reading. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. No further action was taken on this particular ordinance.

Councilwoman Williams offered the following ordinance for first reading:

ORDINANCE TO AMEND ORDINANCE NO. 3614 CREATING THE JONESBORO ECONOMICAL TRANSIT SYSTEM

Councilman Moore moved, seconded by Councilman Street to suspend with the second and third readings. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Councilman Moore moved, seconded by Councilman Street for the adoption of the ordinance. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The ordinance was assigned number 3672.

Councilman Street offered the following ordinance for first reading:

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ORDINANCE TO AMEND ORDINANCE NO. 3658 EXTENDING THE MORATORIUM FOR ENFORCEMENT OF THE STORMWATER MANAGEMENT DRAINAGE ORDINANCE

Councilman Street moved, seconded by Councilman Perrin to suspend the rules for the second and third readings. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Councilman Street moved, seconded by Councilman Perrin for the adoption of the ordinance. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Councilman Street moved, seconded by Councilman Farmer for the adoption of the emergency clause. A roll call vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The ordinance was assigned ordinance number 3673.

Discussion was held regarding a resolution (Agenda No. 5) accepting a bid from Alvin Crabtree and Sons for sidewalks, driveway and drainage boxes on Park Avenue as priced in Bid No. 2006:62. Councilman Perrin questioned City Attorney Crego regarding the penalty clause of the contract whereby it referred to “special conditions”, but no special conditions were specified. Mr. Crego stated with no special conditions, there is no penalty clause. Mayor Formon requested the matter be considered at the next council meeting. Councilman Farmer moved, seconded by Councilman Moore to withdraw the matter from the agenda. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Discussion followed regarding a penalty clause being included in the bid specifications, and if those bid specifications are part of the contract. City Attorney Crego stated if the bid specifications are referenced in the contract then it is part of the contract, and maintained it was an enforceable penalty clause. Councilman Farmer moved, seconded by Councilman Perrin to add Agenda No. 5 back to the agenda. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Councilman Moore moved, seconded by Councilman Perrin for the adoption of the resolution. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The resolution was assigned number 2006:132.

Discussion was held regarding a resolution (Agenda No. 6) accepting bid number 2006:58 for ADA curb cuts and ramp project improvements. It was determined this contract also referred to “special conditions”, but no special conditions were specified. Councilman Farmer moved, seconded by Councilman Perrin to table this item, but later withdrew the motion and second. Discussion followed regarding a penalty clause being included in the bid specifications, and if those bid specifications are part of the contract. City Attorney Crego stated if the bid specifications are referenced in the contract then it is part of the contract, and maintained it was an enforceable penalty clause. Councilman Perrin moved, seconded by Councilman Farmer for the adoption of the resolution. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The resolution was assigned number 2006:133.

Councilman Street moved, seconded by Councilman McCall for the adoption of a resolution to authorize the Mayor and City Clerk to execute a contract with Fisher and Arnold Engineers for drainage improvements at 2400 E. Nettleton (Flood Abatement). A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Councilman Farmer discovered the amount for the contract with Fisher and Arnold Engineers for drainage improvements at 2400 E. Nettleton was incorrect. It listed the amount of \$27,135.00 but should have been \$26,950.00. Councilman Farmer moved, seconded by Councilman Perrin for reconsideration of this resolution. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. Councilman Farmer moved, seconded by

Councilman Moore to amend the amount from \$27,135.00 to \$26,950.00. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The resolution was assigned number 2006:134.

Councilman Street moved, seconded by Councilman Moore for the adoption of a resolution to repeal Resolution No. 2006:123 and to issue a new contract with Miller & Newell to provide drainage improvements. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The resolution was assigned number 2006:135.

Councilman Farmer moved, seconded by Councilman Street for the adoption of a resolution authorizing the Mayor and City Clerk to execute a contract with Miller Newell for the Pines Apartment Project for \$27,135.00. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The resolution was assigned number 2006:136.

Councilman Moore moved, seconded by Councilman Street to remove item 10 from the agenda, a resolution to amend a contract with RSA, Inc. dba NRS Engineering for the design and construction inspection of detention ponds on Valley Drive drainage improvements. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall.

Councilwoman Williams moved, seconded by Councilman Perrin for the adoption of a resolution to accept Bid No. 2006:52 with CINT for JETS Uniforms. Mr. Joel Gardner explained he recommended the highest bid price because of the professionalism and quality of the uniform. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The resolution was assigned number 2006:137.

Under new business, Mayor Formon announced Attorney Ralph Ohm's Office had contacted him regarding a court date set in Judge Fogelman's court for October 26, 2006, at 9:30 a.m. regarding the Gillespie rezoning. City Attorney Crego stated they would be calling seven of the ten council members who denied the rezoning, excluding Councilmen Moore and Farmer who were absent the night the Gillespie rezoning was heard.

Councilwoman Furr reported on DNA training for 25 officers through the Regional Community Policing Institute at no charge to the City of Jonesboro. Chief Yates explained the training was of such quality that Jonesboro has been asked to host the event again.

Councilman McCall asked for an explanation as to why Mr. Brad Hyde, of War Room Communications was not in attendance as requested at the previous regularly scheduled City Council meeting. Mayor Formon stated he had no explanation, but Mr. Hyde had been invited to attend, and referred to a letter (Exhibit 1) that had been delivered to the City Clerk's Office two hours prior to the City Council meeting. The letter was received by Nikki Nottingham, the City Clerk's Office Manager, by a woman who claimed not to know anything about the letter other than it was to be delivered to Donna Jackson, the Jonesboro City Clerk. Mayor Formon stated he did not have the power to force Mr. Hyde to attend.

Councilman McCall raised questions pertaining to invoices that had been sent to JETS, compared to invoices sent to media outlets which contained inflated costs. Councilman McCall stated he was sure there was an explanation but requested the Internal Auditor to look at the invoices. Councilman McCall expressed frustration with being told the work was being done free of charge only to find such a noticeable difference in the invoices. He also stated both media outlets were trying to collect payment for JETS ads, with one of them writing it off as a bad debt. Councilman Moore moved, seconded by Councilwoman Furr to have Misty Micenhamer, the Internal Auditor research the matter and report her findings to the Finance Committee. Attorney Crego

recommended they clarify what the Council is asking of the Internal Auditor. Councilman McCall clarified he was requesting Ms. Micenhamer compare invoices submitted by both media outlets which were billed to the Brad Hyde group and compare them to the invoices submitted by Mr. Brad Hyde to the JETS department for payment. Councilman Farmer further explained during that time, the City Council had not approved any city funds, and were told no city funds would be used. He further stated it is not the City Council's concern if Mr. Hyde profited from private funds, but rather if city funds were used and was the City Council misled. Mayor Formon stated when Dr. Copeland began the JETS Program it was his understanding that there were community donations for advertising of the JETS program. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall.

Councilman Province stated the letter provided by Mr. Hyde in no way answers the questions the city council has, calling it an easy out and an insult to the citizens of Jonesboro.

Councilman Farmer reminded everyone of the Finance Committee meeting for Thursday at 4:00 p.m. Councilman Farmer moved, seconded by Councilman Dover to move the next City Council meeting to Thursday, November 9, 2006, at 6:30 p.m. It was explained it was being moved due to Tuesday being Election Day. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall.

Councilman Street moved, seconded by Councilman Moore to suspend the rules to place a resolution on the agenda. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall.

Councilman Street moved, seconded by Councilman Province for the adoption of a resolution to accept an agreement with Ken Yarbrough and Corliss Lynn Yarbrough for donation of land for the proposed extension of Lawson Road to Southwest Drive. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall. The resolution was assigned number 2006:138.

Councilman Farmer requested City Attorney Crego review a contract with FTN in the amount of \$95,000 pertaining to methane gas at the landfill. Councilman Farmer requested Mr. Crego compare two options and provide the flexibility in the scope of the contract to go with the gas collection system vs. acquiring property using FTN services. Mr. Farmer wanted to know if the City Council was locked in by the contract to just do a gas collection system or could they utilize the services of FTN to acquire property. It was explained the legal opinion would be needed before November 9, 2006, because a meeting was scheduled with ADEQ. Councilman Farmer questioned if anything had been done to acquire an Environmental Lawyer for the process. Mayor Formon stated nothing had been done yet.

Councilman Farmer presented a rough draft of what a five year capital improvement budget would look like based on the needs presented, and explained it was a preliminary draft, emphasizing that City Council and public input were needed. Councilman Farmer gave a history of adopted legislation with the implementation of the 1% sales tax, with ½ of the proceeds to be used for financing capital improvements of a public nature (Ord. 3222 - Exhibit A), and the definition of capital improvements and facilities (A.C.A. 26-75-203 - Exhibit B). Councilman Farmer explained the projects provided in the Capital Improvements draft came from the MATA Plan, current traffic study, and consideration for school safety with estimated costs being provided by Mr. Mike Cameron. The areas covered in the Capital Improvement proposal included the following areas: City Street & Sidewalk Projects, Street Projects, Drainage Projects, and City Facilities Projects (Exhibit C). Councilman Farmer pointed out if all Capital Improvement Projects were done it would total \$62,000,000, with an expected

revenue of only \$47,500,000. He explained the projects will have to be prioritized; stating when the public voted for the 1% sales tax it was to be primarily for streets and drainage. Lastly, Councilman Farmer reviewed the methane gas issue. He stated the question before the Jonesboro City Council is how to address the problem to achieve the most cost effective solution. He explained over a 20 year period the gas will disappear on its own, but because it has migrated to other properties, the City of Jonesboro is forced to deal with the problem now. Several cost comparisons for providing a collection system vs. purchasing the property were provided (Exhibit D). Councilman Farmer explained the best case scenario would be to acquire the property needed and eventually sell it. He recommended setting a public hearing for the purpose of providing and receiving information. Councilman Farmer stated he had a map showing the proposed street and drainage improvements if anyone wanted to look at it following the meeting.

City Attorney reminded everyone of the ADEQ Compliance deadline for the landfill of December 31, 2006, for completion. He also warned a lawsuit has been filed and pending involving the gas migration. Mr. Crego stated as they contemplate the choices, they should also keep in mind the ramifications in dealing with the litigation and deadlines.

Councilman Farmer responded to a letter (Exhibit E) that was intended to be sent to 3800 Jonesboro residences, by Mayor Forman's staff, notifying them that their property was in a designated floodplain or repetitive flood loss area as indicated on Flood Maps. Of the 3800 letters prepared, 800 were mailed out before a mistake was discovered. Councilman Farmer explained the determination of homes being located in the floodplain was based on 1991 floodplain maps only, and information contained in numerous LOMR's and LOMA's was excluded. He further explained had the LOMR or LOMA information been included, properties would have been removed from the floodplain. Mr. Mike Cameron, the person hired to help with drainage issues, received two of the notifications even though neither of his properties are in the floodplain due to filed LOMRs. Councilman Farmer stated it was disappointing because the Public Works Committee and the Public Works Task Force meet frequently, but were not informed of the letter. He further explained the Jonesboro City Council was excluded as well. Councilman Farmer requested that a notification letter be sent out by Friday to the 800 residences who received the incorrect flood plain information, explaining the City made a mistake. Councilman Street stated it was irresponsible to make a determination that anyone's home is in a flood zone based solely on the 1991 flood plain maps and without a surveyor to set base elevations and compare them to base plain elevations. Mr. Mike Cameron expressed concern for the citizens carrying flood insurance when in some cases it is not necessary. He commended the efforts made by the Jonesboro City Council to keep citizens from flooding and paying high insurance rates. Mr. Cameron further stated lending institutions will not loan money to individuals whose property is in the floodplain but do not carry flood insurance. Mr. Cameron estimated 2700 families will be affected by the inaccurate floodplain information, causing them to have to purchase flood insurance unnecessarily in order to get a mortgage for their home, while others may need to purchase flood insurance but were not notified. He explained effort is being made to identify these properties through various drainage projects, but the Floodplain Compliance Manual needed to be completed before the identification process. Mayor Formon responded saying the letter was sent out with good intentions. He explained on a recent trip to FEMA, located in Benton Texas, they were informed overall insurance rates could be lowered through an ISO rating system known as CRS, with one of the stipulations being a letter notifying home owners that they are located in the floodplain. Mayor Formon stated it was his understanding this had been discussed in the Public Works Task Force meetings. Mr. Cameron responded saying incomplete information from the Fisher and Arnold contract produced a floodplain map that city staff determined to be inaccurate and was removed from the city website because several LOMRs and LOMAs were not processed, and yet city staff used the inaccurate information to determine who is and is not in the floodplain. Councilman Farmer stated even though the Public Works Committee, met two weeks ago, and the Public Works Task Force which meets weekly, and the two people hired for their specialties in drainage construction and drainage review were not consulted about the letter. He also expressed concern regarding an erroneous, inflammatory letter

being sent to Jonesboro citizens, with the City Council not being made aware of it especially when four council members are up for re-election. Councilman Farmer stated if one person votes against them because of the letter, and no attempt made to inform people it was a mistake, somebody should lose their job. Mayor Formon stated the staff was trying to do something good and help the citizens. Councilman Farmer questioned why the Public Works Committee, which met October 3<sup>rd</sup>, was not informed the letter was being produced, and given a copy of it. He also questioned why Mr. Cameron and Mr. Auld were not informed of the decision to mail the letter, when they have been hired as drainage consultants Mr. Claude Martin stated this was a result of a meeting he and Brian Wadley had with Mr. Bill Baker, Senior ISO/CRS Specialist, of the different activities they could do to lower insurance rates (Exhibit F) and there was no intent to harm anybody. In response to Councilman Perrin, Mr. Martin stated he approved the letter being sent out. Councilman Farmer questioned the timing of the letter, three weeks before an election, calling it odd and unfortunate. He further stressed there needed to be better communication. Councilman Dover questioned how they ascertained property being in the floodplain, when council members had been told repeatedly there were no new maps. Attorney Crego stated it was something that had never been done in the past, which was an CRS criteria. Councilman Farmer stated the letter needs to be sent when the City of Jonesboro has accurate information. Councilman Farmer moved, seconded by Councilman Moore having an explanatory letter to contain an apology, sent out to the 800 individuals who received the erroneous letter. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall.

With no further business, Councilman Perrin moved, seconded by Councilman Street to adjourn the meeting. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, and McCall.