



## Legislation Details (With Text)

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Date	Ver.	Action By	Action	Result
1/20/2004	1	City Council	Passed	Pass

Minutes for the City Council meeting on January 5, 2004

PUBLIC HEARING 6:10 P.M. - A public hearing was conducted for the purpose of vacating and closing all of Houghton Street north of Matthews Avenue and south of Logan Avenue. Utilities letters were provided to the City Clerk just before the public hearing. No opposition was voiced. (Jonesboro Real Estate Holdings)

CITY COUNCIL MINUTES - January 5, 2004

The Jonesboro City Council met Monday, January 5, 2004, at 6:30 p.m. A full quorum was in attendance. Present were: Mayor Brodell, City Clerk, Donna K. Jackson, City Attorney Phillip Crego and twelve council members. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy.

Councilman Perrin moved, seconded by Councilman Moore to approve the minutes of December 15, 2003, as delivered. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy.

The following ordinance was on the third reading:

ORDINANCE TO REZONE PROPERTY FROM COMMERCIAL C-5 AND RESIDENTIAL R-2 TO COMMERCIAL C-3, LOCATED ON THE NORTH SIDE OF E. MATTHEWS AND WEST OF ROLAND STREET. (Jonesboro Real Estate Holdings)

Councilman Moore 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, Young, Dover, Furr, McCall, and Roddy. Councilman Moore moved, seconded by Councilman Street 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, Young, Dover, Furr, McCall, and Roddy. The ordinance was assigned number 3451.

The following ordinance was on the second reading:

ORDINANCE TO REZONE PROPERTY FROM COMMERCIAL C-3 TO RESIDENTIAL R-3, LOCATED ON THE WEST SIDE OF STADIUM BOULEVARD, SOUTH OF PLANTERS DRIVE. (Ronald Jefford, HJH, LLC)

Mr. Terry Bare of Hayward, Kenward, and Bare Engineering Firm spoke in favor of the zoning change. He explained Jonesboro was in need of affordable housing which his clients were willing to provide. Mr. Bare addressed an issue raised at the Metropolitan Area Planning Commission saying Mr. Clifford Toney had requested the proposed drive way be changed to a public road way, for reasons of safety where school children are being picked up by the Nettleton School. He explained he had spoken with Mr. Mike Johnson of

the Nettleton School who stated there was no policy for entering private property, but was willing to assist in developing a bus stop on the private property. Mr. Bare stated Mr. Toney wanted the public road way in an effort to subdivide his property which would be more profitable. He explained his client, Mr. Jefford was willing to consider a public road way if Mr. Toney would use some of his land and pay for a portion of the construction cost. The deadline for this proposed offer was Monday, December 29, 2003. Mr. Toney who is represented by Attorney Jim Lyons and Attorney Bob Gibson denied their proposal. A second proposal was offered when the attorney's contacted Mr. Bare saying they would not oppose the rezoning if a public road was built. Mr. Jefford offered to use his own property for the public road if Mr. Toney would cover a portion of the construction cost, but the second proposal was denied as well. Mr. Bare stated he and Mr. Jefford had been contacted several times by Mr. Toney and his attorney stating they would not object to the rezoning if Mr. Jefford would build the public road way. He claimed Mr. Toney was not objecting to the zoning because of what is being built, but rather because they want a road way to serve Mr. Toney's property. Mr. Bare stated if Mr. Toney develops his property on Stadium Blvd. it would be sold as one track of ground, but if a public road is constructed on the north side that same track of ground could be cut up in to four or five lots at a greater value. Mr. Bare stressed the fact that the public road is a site plan issue, and should not be the determining factor when considering a change in zoning. Mr. Bare provided two letters in which he referred to a paragraph that stated if the public road is not built contiguous to Mr. Toney's property then they will rally the neighborhood in opposition to the rezoning. Attorney Jim Lyons addressed the Council saying the rezoning should be denied because the rezoning would be inconsistent with the City's Land Use Plan and its intended use. He explained the Land Use Plan calls for the property to be Thoroughfare Commercial. A second reason for denying the rezoning given by Attorney Lyons was a question regarding ownership. He explained there was a small strip of land along the south side of the C-3 to R-3 property line where a fence is located which he believes belongs to Mr. Toney. He stated Mr. Jefford is showing this strip in the legal description of the property to be rezoned. Attorney Gibson explained that Mr. Toney has always opposed the rezoning for residential use, but in an effort to be a good neighbor he attempted to reach a compromise. He stated Mr. Toney did not envision his property being utilized in this manner, and was not an attempt to strong-arm any one in to building a public road. Attorney Gibson argued if additional apartments were needed in Jonesboro and referred to a list of newly constructed apartments provided by Mr. Terry Bare. He remained council members of the problems in existing apartment complexes. He explained a (R-3) buffer already exists behind the proposed apartment complex, and the rezoning would be an extension and an encroachment of residential zoning in to the commercial area. Attorney Gibson stated the rezoning would be incompatible with the surrounding area, and would create problems with Mr. Toney's commercial kennel. He stated the 60 foot strip would be zoned residential and sandwiched between commercial zoning making it incompatible with the Land Use Plan. He alleged the zoning was not suitable for the uses permitted under existing zoning, and would have an adverse effect on Mr. Toney. Councilman Farmer questioned Attorney Gibson if he was suggesting the Council legislate out affordable housing. Mr. Gibson responded saying technically the issue is not should apartments be allowed, but rather where in town do we need apartments, and is this best location. Councilman Farmer questioned if they would be opposed to a public road being built, even though it was not adjacent to Mr. Toney's property. Attorney Gibson responded saying the road is no longer an issue. Lastly Councilman Farmer referred to a legal term called "moving to the nuisance" and asking who would have the burden in a lawsuit. Attorney Gibson responded saying it would not be H. J. H. Properties vs. Mr. Toney but rather the residents living in the area. Mr. Toney Clifford addressed the Council stating he would be adversely affected by the rezoning, and was not trying to force the construction of a public road in front of his property. He stated H. J. H. Properties had not provided proper notification of their meeting to local residents. Mr. Toney stressed he had made every effort to place his dog kennel in a commercial area, free from future possible lawsuits. Mr. Glenn Batten addressed the Council stating the MAPC had voted 8 to 0 in favor of the rezoning. He clarified a statement made by Attorney Gibson explaining his job is to impartially evaluate a proposed plan and to make recommendations to the MAPC, not to merely aid individuals in getting a rezoning request approved. Mr. Batten provided some aerial photographs of the area. Ms. Carrie McDonald, Area Manager for HJH Properties, addressed the council stating proper notification of the meeting was provided to area residents by the distribution of flyers, and they intend to be part of the community. Mr. Bud Melton of Melton Brothers a John Deere Dealership spoke in opposition to the rezoning stating he had the same concerns as Mr. Toney with regard to residential complaints about his business.

Councilman Perrin offered the following ordinance for the first reading:

**ORDINANCE TO VACATE AND CLOSE ALL OF HOUGHTON STREET NORTH OF MATTHEWS AVENUE AND SOUTH OF LOGAN AVENUE. (Jonesboro Real Estate Holdings)**

Councilman Moore moved, seconded by Councilman Farmer to suspend with the second and third readings. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy. Councilman Moore moved, seconded by Councilman Perrin for the adoption of the ordinance. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy. The ordinance was assigned number 3452.

The following bid was reviewed: 2003:50 - Concrete Labor - Street Department

Councilman Farmer moved, seconded by Councilman Perrin to accept the recommendation of the Engineering staff and the Infrastructure Committee to split the bid between Barber Concrete and Alvin Crabtree, accepting the low bid on all items listed for the

annual concrete bid. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy.

Councilman Perrin moved, seconded by Councilman Hargis for the adoption of a resolution approving Robinson Electric, Inc. for the construction of Parker Park Community Center Addition, but the motion and second was later withdrawn. City Attorney Crego stated he had a number of questions after Mr. Jim McKinnon, Grants Coordinator had brought him the paper work on Wednesday. He explained Mr. McKinnon then provided a revision on Friday which answered some of his questions, but not all them. Mr. Crego stated it was his understanding that the CDBG grant had been approved for three items: pavilions, lighting (Mr. Crego was not sure if the lighting was included), and construction of the Parker Park Community Center Addition. Mr. McKinnon responded saying we had been approved for \$86,850.00 which included: Pavilions (that were paid for from another parks project); Lighting; and Construction of the Parker Park Community Center Addition. Mr. McKinnon explained Jason Wilkie, the Parks Director had used funds from another parks project to pay for the pavilions, and after the engineering costs and architectural costs for the community building there would be approximately \$13,600.00 left for lighting. City Attorney Crego questioned if all three items were awarded under the grant but we changed the scope of work, being the lighting, would not HUD require a change. Mr. McKinnon responded saying the program would have to be amended which requires a public hearing. Attorney Crego stated if we have to amend the HUD grant which requires a public hearing, then the council is being asked to award a contract utilizing the HUD funds before the change has been made. Mr. McKinnon responded saying they would only be approving one item, being the Parker Park community building, then they would come back for approval for the lighting. City Attorney questioned how much was apportioned for each of the three items. Mr. McKinnon stated \$15,000 was apportioned for lighting, \$15,000 for pavilions, and \$58,000 for the building. Mr. Crego pointed out the contract calls for \$69,000 for the building even though the grant only provides for \$58,000. Mr. McKinnon stated he did not see a problem with that. Councilman Hargis stated the specifications for the work were done by an architect and the amount provided to HUD was an estimate so would not be exact. Councilman Perrin claimed you could exceed or be below the estimated figures as long as you did not exceed the total amount of the grant. Mr. McKinnon concurred with Councilman Perrin's statement. City Attorney Crego responded saying the Council is being asked to approve the expenditure before approving the change, and expressed concern that it might cause the loss of grant funds. Mr. McKinnon stated that is how it has been done all along. Attorney Crego stated he had requested Mr. McKinnon to get something in writing from the HUD office stating this process was acceptable, but has not received it as of yet. Mayor Brodell responded saying we have to accept it or rebid the project because the bid is up by January 9, 2004. Attorney Crego stated he had another question pertaining to the bid. He explained the bid came in at \$86,000 but was negotiated down to \$69,700, and even though you can negotiate with the lowest bidder, if a significant enough change is made then the entire project should be rebid. Councilwoman Furr stated there was only a \$2,800 difference in the initial bid compared to the next lowest bidder, and questioned if the City Attorney should not provide an opinion regarding re-bidding the project, since \$11,300 was removed from the initial scope of work. Councilman Farmer questioned if Attorney Crego was comfortable with the council voting on the issue tonight. Mr. Crego stated he would prefer having something in writing from HUD stating it was all right to proceed in this manner. Councilwoman Furr stated she had questioned Mr. Larry Flowers, Finance Director regarding the normal procedure for bids to be open by one individual and tabulated by another which he confirmed. She stated the bid had been opened, but not tabulated, and therefore was not comfortable with voting on the issue tonight. Councilman Perrin stated he would like some clarification on how grants operate, and a legal opinion if the specified amount has to go for that particular line item.

Councilman Perrin moved, seconded by Councilman Street for the adoption of a resolution expressing the willingness of the City of Jonesboro, Craighead County to utilize Federal-Aid funds for a traffic signal at Highway 141 (South Culberhouse) and Parker Road. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy. The resolution was assigned number 2004:01.

Councilman Young moved, seconded by Councilman Farmer for the adoption of the Classification and Compensation Policies and Procedures and Plan B modified Salary Schedule. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy. The resolution was assigned number 2004:02.

Under new business by the Council, Councilman McCall moved, seconded by Councilman Moore to move the next council meeting from January 19<sup>th</sup> to January 20<sup>th</sup> in observance of Dr. Martin Luther King, Jr. Day. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy.

Councilman Farmer moved, seconded by Councilman Street naming Councilman Harold Perrin to serve as President Pro Tempore in 2004. A voice vote was taken resulting in all members voting aye, with the exception of Councilman Perrin who abstained from voting. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Street, Young, Dover, Furr, McCall, and Roddy.

Councilman Dover moved, seconded by Councilman Young naming the following council members to serve on the 2004 Nominating and Rules Committee: Councilman Province, Councilman Moore, Councilman McCall, and Councilman Farmer. These same

individuals served on the 2003 Nominating and Rules Committee. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Young, Dover, Furr, McCall, and Roddy.

Mayor Brodell stated he would have the State of the City address at the next council meeting, and commended Councilwoman Furr for her work in the community and the write up in the Jonesboro Sun.

Councilman Farmer stated previous discussions have been held regarding city owned property, and explained a list was attached to the city insurance which identified 21.4 million dollars of city property and stated it should be added to the mix. Councilman Farmer also requested all questions and comments regarding the street audit by BKD be referred to City Attorney Crego. Mr. Crego stated he has requested BKD to provide documentation and recommended a committee be selected to review the information with him in order to determine what further investigation is warranted.

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