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Minutes for the City Council meeting on November 3, 1997
CITY COUNCIL MINUTES - NOVEMBER 3, 1997

The Jonesboro City Council met Monday, November 3, 1997, 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 12 council members. Those members were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy.

The minutes of October 20, 1997, were approved as amended, by Councilman Pratt seconded by Councilman Bowers. The minutes were amended under new business to show that Councilman Pratt presented Council with an Attorney General opinion which states a city’s advertising and promotion commission has the ultimate authority to determine the uses of the advertising and promotion tax, without approval by the city council, provided that the chosen use of the tax is one that is authorized by the provisions of A.C.A. 26-75-606, which set forth the permissible uses of the advertising and promotion tax. A voice vote was taken resulting in all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy.

Mayor Brodell read the next order of business, a request to address Council regarding Ordinance No. 2787 by a group called, “People For Parks.” Mr. Don Mullinex (a former Councilman) stated Attorney Keith Carle, would address Council on their behalf. Before Mr. Carle began, Councilman Rega made an opening statement, saying the Council as a whole had met on numerous occasions, in public hearings and in council meetings to discuss Ordinance No. 2787, and during that time, neither Mr. Mullenix nor Mr. Carle had attempted to contact him, the Mayor, nor any member of the Planning and Advisory Committee for Parks & Recreation. Councilman Rega continued to say it was an attempt, in this the eleventh (11th) hour, to grand stand in front of the media, under the banner they are people for parks. Councilman Rega stated he welcomed the group because they had followed the established procedures of the City Council for being placed on the agenda.

Mr. Carle responded by saying the City Council’s agenda for May 19, 1997, did not inform the public that Ordinance Number 2787 would be discussed. Mr. Carle continued by saying as a matter of new business the ordinance should have been offered toward the end of the meeting, but instead was bumped to the front of the

meeting, and to suggest “People For Parks” are waiting till the eleventh (11th) hour to grand stand is like the pot calling the kettle black.

Mr. Carle stated “People For Parks” question Ordinance No. 2787 because the ordinance does not specify that the funds will be used for Parks and Recreation nor does it specify the Mayor and City Council will have any control over the money once the ordinance goes into effect. Earlier Mr. Carle had given each council member a packet of information which contained a legal opinion from the Office of Attorney General, Winston Bryant, regarding the following question, Can a city allow its advertising and promotion commission to use the city’s advertising and promotion tax for purposes ultimately determined by the commission, with no provision for approval of the expenditures by the city council? The answer was that a city’s advertising and promotion commission has the ultimate authority to determine the uses of the advertising and promotion tax, without approval by the city council provided that the chosen use of the tax is one that is authorized by the provisions of A.C.A. 26-75-606, which set forth the permissible uses of the advertising and promotion tax. Mr. Carle stated despite this legal opinion, the public was being told the money would be used for parks, and would be controlled by Council. Mr. Carle argued there was a flaw in the wording of Ordinance No. 2787 which reads: Section 3. The city advertising and promotion fund shall be used, in the manner determined by the city advertising and promotion commission, exclusively for the advertisement and promotion of the city and its environs and/or for the construction, maintenance, repair and operation of public parks, etc. Mr. Carle pointed out if the City wanted the money to be used for Parks and Recreation they should have set forth in the ordinance the money would be used exclusively for parks and recreation.

Mr. Carle brought up Ordinance No. 1361, the Hotel Motel Tax which uses the same wording (exclusively for Advertising and Promoting Jonesboro, and/or), stating the purpose of this tax was to build a convention center. He pointed out a convention center has yet to be built, and the majority of the money goes to fund the Forum and Foundation of Arts. According to Mr. Carle even though state law has changed, the ordinance has yet to be amended, so Council does not have the authority to spend the money in this way.

Mr. Carle stated according to recent state statutes the Advertising and Promotion Commission is to be made up of 4 hotel-motel owners, 2 council members, and 1 member at large, with the at large position being appointed by the Mayor for no more than one year. After that the Commission is to recommend and appoint its members with staggered terms. Mr. Carle questioned who was on the Advertising and Promotion Commission. He stated Councilman Hannah, now deceased, was still listed as a serving council member. It was explained that Councilman Roddy and Councilman Bowers were appointed to the Advertising & Promotion Commission, on May 19, 1997, but the appointments were left out of the minutes. Mr. Carle stated Beth Couch and Claude Bull had not been reappointed, nor were their terms staggered. Mr. Carle stated the Advertising & Promotion Commission is to elect officers, establish rules and regulation, and keep minutes of their meetings, however when he requested this information it was not available.

City Attorney, Phillip Crego responded by stating that the language of Ordinance 2787 is keeping with Arkansas Code, and if Mr. Carle has a question in interpretation that is his opinion opposed to what a different opinion might be. Mr. Crego explained there are two options given in Arkansas Statute 26-75-604. The first for a referendum (once a measure has been passed), the second is a result of an initiative (before a measure is passed). The second option would not apply since Ordinance No 2787 was adopted by Council on June 6, 1997.

Mr. Crego stated with regard to questions on the rules & regulations, the minutes, and membership of the Advertising and Promotion Commission, Mr. Carle had not spoken with him, Councilman Rega, Mayor Brodell, nor any member of the Advertising and Promotion Commission.

Mr. Carle countered by showing a Freedom of Information request which he stated he had given to Mayor

Brodell, and his secretary. Mr. Carle stated when asked about the rules & regulations, officers, and minutes Mayor Brodell responded by saying he did not know, or we do not have that information.

Mayor Brodell stated he invited Mr. Carle into his office to discuss his concerns and Mr. Carle refused, by saying he would discuss the matter in public not in a back room. Mayor Brodell stated he then sent Mr. Carle to the Finance Office.

Councilman Kelton recommended that Mr. Carle submit his specific questions in writing and give a reasonable amount of time for the questions to be answered. Mr. Carle responded by saying we will wait to see how the vote goes (on the Hamburger Ordinance).

The following ordinance was on the third and final reading:

ORDINANCE TO AMEND ORDINANCE NO. 954 KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES AND FOR OTHER PURPOSES (Deloris White)

Several spoke in opposition to the rezoning. Mr. Bewey L. Grigsby of 1001 S. Main, Mrs. Nancy Kirkley of 200 W. Cherry, and Dr. Michael Dougan of 303 W. Cherry. Mr. Grigsby and Dr. Dougan both spoke regarding the demise of Jonesboro's Victorian heritage. Mr. Grigsby showed a copy of Grand Homes of the South which featured his 100 year old home. Mrs. Kirkley and Mr. Grigsby were concerned about parking on the street, due to an over flow of clientele. Dr. Dougan stated it was a downward slope of spot zoning. Mr. Chris Gardner, Attorney for the rezoning explained the Metropolitan Area Planning Commission approved Commercial Five zoning with the stipulation that nineteen feet on the Main Street side of the street be given to the City of Jonesboro. Mr. Gardner explained the surrounding property is zoned Commercial Two including Mr. Grigsby's property. In closing, Mr. Gardner presented a drawing of the property showing ten (10) off the street parking spaces, approximately 10 feet wide. Councilman Kelton questioned City Attorney, Phillip Crego as to the spot zoning issue. Mr. Crego stated as it exists it is spot zoning. A roll call vote was taken resulting in all council members voting aye, with the exception of Councilman Province who voted nay. Those members voting aye were: Kelton, Rorex, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy. The vote was 11 to 1 in favor of the motion. The ordinance was assigned number 3009.

The following ordinance was on the third and final reading:

ORDINANCE TO AMEND ORDINANCE NO. 954 KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES AND FOR OTHER PURPOSES (Floyd Wineland)

Councilman Bowers moved, seconded by Councilman Kelton for the adoption of the ordinance. A voice vote was taken resulting in all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy. The ordinance was assigned number 3010.

Councilman Roddy offered the following ordinance for the first reading:

ORDINANCE TO AMEND ORDINANCE NO. 954 KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES AND FOR OTHER PURPOSES (Sage Meadows / C.M. Mooney)

Councilman Tate moved, seconded by Councilman Roddy to suspend the rules and place on second reading. A

voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy. Councilman Tate moved, seconded by Councilman Kelton to further suspend the rules and place on the third and final reading. A voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy. Councilman Tate moved, seconded by Councilman Roddy for the adoption of the ordinance. A voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy. The ordinance was assigned number 3011.

Councilman Kelton offered the following ordinance for the first reading:

AN ORDINANCE GRANTING A FIFTEEN (15) YEAR EXTENSION OF ORDINANCE #1919 GRANTING A FRANCHISE TO EAST ARKANSAS CABLEVISION, INC. A CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF JONESBORO, ARKANSAS AND SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF THIS FRANCHISE

Discussion followed regarding whether or not Council would be granting an exclusive franchise with the adoption of this ordinance. Councilman Young moved, seconded by Councilman Rega to suspend the rules for a second reading, but later the motion and second were withdrawn. Councilman Pratt suggested appointing a committee or requesting the General & Building Committee to review the ordinance and come back with recommendations. Councilman Young moved, seconded by Councilman Pratt to table the ordinance till the first meeting in January 1998. A voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy.

Councilman Tate moved, seconded by Councilman Fletcher for the adoption of a resolution to proceed with condemnation action at 518 North Second, Nathaniel Wright, Owner, and 206 West Forrest, Jerry Minton, Owner. A voice vote was taken with all council members voting aye, with the exception of Councilman Young. Councilman Young explained he could not vote to condemn the property when surrounding property looks as bad or worse. Councilman Young raised questions regarding the status of the property located at Highland and Nettleton (Snak-Pac). Mr. Doug Little, Code Enforcement Officer explained he was still waiting for confirmation from City Attorney, Phillip Crego. Mr. Crego stated he would check on the status of the foreclosure action. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Fletcher, Bowers, and Roddy. The resolution was given the number 1997:74.

Councilman Tate moved, seconded by Councilman Rega for the adoption of a resolution to place traffic signs at the following locations:

STOP SIGNS:

On Longview Dr. at Windover Dr.
On Enterprise Dr. at Longview Dr.
On Enterprise Dr. at Windover Dr.
On Cate at Patrick
On Brownstone Dr. at Harrisburg Rd.
On Brownwood Cir. at Brownstone Dr. / Hacienda Dr.
On Russell Hill Dr. at Harrisburg Rd.
On Brownfield Cv. at Brownstone Dr.
On Hacienda Dr. at Brownstone Dr.

35 M. P. H. SPEED SIGNS:

On Philadelphia Rd. from N. Church (Hwy 141 N.) to Dacus Ln.

A voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy. The resolution was assigned number 1997:75.

Councilman Rega moved, seconded by Councilman Roddy for the adoption of a resolution setting a public hearing for 6:00 p.m. November 17, 1997, to discuss taxable Act 9 Industrial Revenue Bonds for Frito-Lay, Inc. A voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy. The resolution was assigned number 1997:76.

The following Reappointments/appointments were reviewed:

Councilman Rega moved, seconded by Councilman Province for the reappointment of Elizabeth Stafford to the Board of Directors of the Jonesboro Urban Renewal & Housing Authority with an expiration date of November 2002. A voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy

Councilman Young moved, seconded by Councilman Kelton for the reappointment of Jeannie Vanhorn, E.T. Kendall, with the appointment of Tom Simms to replace Tracy Anderson on the Metropolitan Area Traffic Authority. A voice vote was taken with all council members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher, Bowers, and Roddy.

Under new business, Mayor Brodell informed Council that the Election Commission had changed the voting place for Districts 3 and 9, from the ASU Armory to the ASU Pavilion.

Mayor Brodell informed Council to two meetings. The first meeting was at 6:30 p.m. regarding Patricia Drive on November 4, 1997. The other meeting was at 7:00 p.m. November 4, 1997, in Judge Bearden's office regarding distribution of Act 833 funds.

Councilman Crockett reported the Audit Committee met October 30, 1997, to review the audit report and asked to have the record show the Council had received the audit report and accepted its findings.

Councilman Young informed Council of a Finance Committee meeting Wednesday, November 5, 1997, at 5:00 p.m. to review five (5) bond proposals to replace Stephens Inc.

With no further business the meeting was adjourned.