



## Legislation Text

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**File #:** MIN-04:137, **Version:** 1

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Minutes from the City Council meeting on July 19, 2004

PUBLIC HEARING - 5:30 p.m. - The public hearing scheduled for the purpose of discussing tax increment financing and to review proposed plans of the Turtle Creek Mall was delayed by five minutes waiting for representation. Mayor Brodell recognized Mr. Bruce Burrow who explained the project had been “built on paper” first and the plans had already been approved by the Metropolitan Area Planning Commission. Mr. Burrow provided a “turtle’s eye view” of the proposed mall, naming the following stores, and explaining they have letters of intent from each tenant: Target, J. C. Penny’s, Chico’s, Barnes & Noble, Circuit City, Bed Bath and Beyond, and Dillard’s. He stated east of the Dillard’s Store would be relocation of the drainage ditch which would run across Highland Drive into a retention pond and park like area. Mr. Burrow stated no other city the size of Jonesboro would have a mall any finer, providing for a combination a Life Style Center and closed shopping area. He explained the project would contain extensive landscaping, water fountains, and statuary, which has become a Belz Burrow Development trade mark. As a result of the relocation of the drainage ditch, over 520 homes will be removed from the flood plain creating an annual savings of \$200,000 in flood insurance for the home owners. It was reported that the investment between developers and retailers will be over 100 million dollars, creating 1500 jobs with projected sales of 225 million dollars annually. Mr. Burrow explained the school district would receive an additional \$108,000 a year for their portion of millage that would go toward the reduction of bonds. Attorney Tim W. Grooms of Quattlebaum, Grooms, Tull & Burrow provided some background information, stating in the year 2000 Amendment 78 was adopted creating Tax Increment Financing (TIF) which paid for such things as infrastructure. Then in 2001 legislation was passed allowing for redevelopment districts, and most recently in January 2004 TIF was amended providing for State Turn Back funds to consider if a TIF was in place assuring school districts were getting the increased tax. Attorney Grooms stressed the bonds are not general obligation bonds, and the City of Jonesboro would not be liable for those bonds. He explained a TIF district does not create a tax exemption, but rather the owner of the project will pay a full share of ad valorem taxes at whatever the assessed millage rate, with part of it going to a bond trustee to make principal interest on the bonds. Councilman Farmer questioned if cities and/or counties were limited to one redevelopment district. Attorney Grooms responded saying according to enabling legislation cities/counties may have more than one redevelopment district, but the districts can not overlap. He also stated redevelopment districts may be merged for the purpose of getting the city a better rate because of a bigger bond issue. Attorney Grooms was asked to provide the legislation information to City Attorney Crego. Councilman Farmer questioned since a special fund is created and someone must be responsible for how those funds are distributed, what responsibility falls to the City of Jonesboro. Attorney Grooms stated the City Council should look at the Project Plan and determine if it is economically feasible, but once the district is formed, the City does not have any ongoing responsibilities. He further explained the City can require periodic expenditure reports be made. Councilman Farmer questioned if that would be the responsibility of the Finance Department, and was told it could, but once the City approves the permanent financing, the Bond Trustee will have specific parameters on what bonds may be released for and how money is to be paid. Attorney Grooms explained the city may approve in an ordinance the Bond Trustee, Bond Firm, and Bond Counsel but the selection of these positions falls to the underwriter and Bond Counsel. He explained the Bond Trustee will be part of the bond issue and has not been selected yet, because it depends on who buys the bonds. Attorney Grooms explained the Jonesboro City Council will be asked to adopt an ordinance approving the specifics such as interest rate, bond trustee, and any amendments to the Project Plan. Councilman Farmer questioned if the TIF funds apply only to

Infrastructure or can it apply to other improvements. Attorney Grooms responded saying this particular TIF applies only to infrastructure, but TIFs in general can be very broad and are determined by the enabling legislation. Councilman Farmer questioned based on the wording in the ordinance (page 3 of 14; line 16) if they could acquire property. Attorney Grooms explained the ordinance tracks the statute, and yes they could acquire property but the project plan defines what will be used with the TIF monies. Councilman Farmer reading from section (5), page four (4), stating it was blank with regard to the project representative designation who makes decisions for the City of Jonesboro regarding the redevelopment district. Attorney Grooms stated they had suggested to Attorney Crego that it be the Mayor of Jonesboro, but when the Bond Trustee takes over the disbursement of funds, then he would assume that role. Councilman Farmer questioned the wording of the ordinance stating in most instances the ordinance is authorizing the Mayor and City Clerk, but on page 7 of 14 (g), regarding execution it only referenced the Mayor, and asked if that was in reference to the Mayor's role as project representative. Attorney Grooms stated there was no real reason for having only the Mayor specified. Councilman Farmer questioned the rest of the wording in subparagraph (g), "The Mayor is hereby authorized to confer with the Trustee and Bond Counsel in order to complete the Continuing Disclosure Agreement . . . ." Attorney Grooms explained it was a security issue if anyone questions the authority of the Bond Counsel and follow up documentation is needed. Councilman Farmer questioned Exhibit A, if there was a plat or survey that tied the legal descriptions together. Attorney Grooms explained it was contained in the Project Plan. Councilman Farmer questioned if the list in Exhibit B came from state law. Attorney Grooms explained in the enabling legislation they provide a map for what a project plan should contain. Councilman Farmer questioned if anyone seeking a redevelopment district would have to follow Exhibit B. Attorney Grooms explained they would have to follow the statute and Exhibit B was the same order as the statute. He further confirmed that city councils may develop criteria for when they will look at a TIF district. The question was asked how the City Council can be assured the site plan will be built as presented. Attorney Grooms explained the bond holders will not release the proceeds until certain parameters have been met, and all regulations of the Jonesboro's land use plan, City Code and City Engineering requirements would apply. Attorney Grooms explained by statute the TIF would be applied for up to twenty-five years, but depending on the interest rate the bonds could be paid off prior to the twenty-five years. Councilman Dover asked if the bonds are paid off early does the redevelopment district continue to exist. Attorney Grooms explained the district will be set up so it will terminate when the bonds are paid off. It was explained that the Project Plan will provide a list of improvements to be paid with the TIF funding as well as cost estimates. City Attorney Crego stated he had been provided a completed ordinance (the blanks filled in) earlier today, and the Project Plan which was not previously attached. He further stated everything appeared to be in order. It was explained by Attorney Grooms that if the ordinance is adopted and the project plan approved, then the developer will go forward with its construction and permanent financing. He further stated they were waiting on one federal permit from the Corp of Engineers which they expect within the next two weeks. Councilman Street questioned if the Jonesboro School District had offered any opposition and if they supported the project. Attorney Grooms stated they had not heard any concerns from the school district, and offered anyone present from the school district to address the issue. No one spoke in opposition. Councilman Farmer asked if they could review the project plan, and Attorney Grooms stated they had it available for council members. Mayor Brodell adjourned the public hearing.

APPEAL HEARING - 6:00 p.m. - Mayor Brodell informed those in attendance that he had been notified that Attorney Skip Mooney, representing Anita Arnold had made the decision to once again withdraw their request for an appeal hearing. He assured those in attendance that the appeal and ordinance would be pulled from the agenda.

CITY COUNCIL MINUTES - July 19, 2004

The Jonesboro City Council met Monday, July 19, 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 eleven council members. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. Councilman Young was not in attendance. Councilman Roddy arrived late (6:35 p.m.) and was not in attendance for the adoption of the minutes. Mayor Brodell left the meeting at the beginning of agenda item 6 and Councilman Perrin presided over the remainder of the meeting in Mayor Brodell's absence.

Councilman Perrin moved, seconded by Councilman Farmer to approve the minutes of July 6, 2004, as revised. City Clerk, Donna K. Jackson informed council members that she had corrected a name in the original set of minutes, and a revision was provided prior to voting. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy.

LEGAL REPORT - Attorney Crego reported there were no major changes since the last report and explained the division of work in his office since the hiring of Assistant City Attorney Carol Duncan. He explained Ms. Duncan handles District Court and Municipal Court proceedings and they would not be attending committee meetings unless specifically asked to be there. He apologized if anyone had not received a response from his office, explaining his email was not working last week. Attorney Duncan reported the Bingham appeal brief had been filed and they were waiting on the reply brief which had been extended to July 28, 2004. She reported on the abatement program regarding a meth lab that was found on Main Street, saying they were in hopes the owner would continue to operate with authorities voluntarily.

The following ordinance was on the first reading but at the request of Attorney Skip Mooney the item was pulled a second time:

ORDINANCE TO REZONE PROPERTY FROM RESIDENTIAL (R-1) TO RESIDENTIAL (R-3), LOCATED ¼ MILE NORTH OF JOHNSON AVENUE AND ¼ MILE WEST OF BRIDGER ROAD. (Anita Arnold)

The following ordinance was on the third and final reading:

ORDINANCE AMENDING THE JONESBORO CODE OF ORDINANCES DEFINING AND LIMITING CONDITIONS FOR OPEN BURNING WITHIN THE CITY LIMITS OF THE CITY OF JONESBORO; PROVIDING FOR ENFORCEMENT BY THE FIRE DEPARTMENT; AND FOR OTHER PURPOSES.

When asked if he supports this particular ordinance, Mayor Brodell responded saying there were problems with the ordinance, and he could not support it. He explained people had complained that their freedoms were being taken, and made reference to the barrel burning portion of the ordinance. He further stated there were portions of the ordinance that were not state law, but was unsure which portions those were. Councilman Farmer offered to hold the ordinance in order to provide a list of requirements that goes beyond state law. He explained they could then discuss those particular requirements and why they were included in the ordinance. Mayor Brodell explained he was not opposed to stated law and recognized Mr. Robert Rees, saying they need to hear from both sides of the issue. Mr. Rees argued the City of Jonesboro had gotten along without the law, and all the ordinance would accomplish would be to give more control to the bureaucrats. He stated no one understands what they can or cannot burn even though the ordinance had just been read. Fire Chief Herring explained the ordinance was not to prevent anyone from burning what is currently burnable, but to set parameters for the safe burning that is already allowed by state code. He explained he had received approximately ten calls from individuals with concerns, but once the parameters were explained they were all right with the ordinance. Chief Herring stated they would be preparing a pamphlet that would help citizens better understand the burn ordinance. Mr. Bob Wood spoke in opposition to the ordinance regarding the clearing of lots and problems with burning on large acre tracks. He explained developers will have to comply if it is state law, but the cost would be passed on to the home owner. Ms. Julie Mills, who was with the Home Builders Association spoke saying as an association they were in support of the ordinance because it was making it safe for all involved. Mr. Rick Forbus, former Jonesboro Fire Marshall spoke in favor of the ordinance saying it follows state law, and giving examples of past fires that resulted from improper burning. He argued the ordinance was necessary to give the fire department what it needs to enforce the laws. Councilman Farmer explained it is the City Council that is the legislative branch and all they can do is pass the ordinance, but it is up to the Executive Branch to enforce it. Councilman Moore moved, seconded by Councilman Street for the adoption of the ordinance. A voice vote was taken with all members voting aye with the exception of Councilman Hargis who voted nay. Those voting aye were: Farmer, Province, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. The ordinance was assigned ordinance number 3479.

Councilman Moore offered the following ordinance for first reading:

ORDINANCE TO REZONE PROPERTY FROM RESIDENTIAL (R-1) TO COMMERCIAL (C-3), LOCATED ON THE SOUTHEAST CORNER OF WEST WASHINGTON AND WEST MATTHEWS. (Francis T. Sowle & Sara Goodman)

Councilman Moore moved, seconded by Councilman Perrin to suspend with the second reading. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy.

Councilman Perrin offered the following ordinance for first reading:

ORDINANCE CREATING A REDEVELOPMENT DISTRICT PURSUANT TO A.C.A. 14-168-301 ET SEQ., SPECIFICALLY INCLUDING WITHOUT LIMITATION A.C.A. 14-168-305; DESIGNATING THE BOUNDARIES OF SUCH PROPOSED REDEVELOPMENT DISTRICT; ESTABLISHING A SPECIAL FUND FOR THE REVENUE AND EXPENDITURES GENERATED ON ACCOUNT OF SUCH REDEVELOPMENT DISTRICT; ADOPTING A PROJECT PLAN FOR SUCH REDEVELOPMENT DISTRICT; ADOPTING A PLAN TO INCLUDE TAX INCREMENT FINANCING IN SUCH PROJECT PLAN; AUTHORIZING THE ISSUANCE OF REDEVELOPMENT BONDS PURSUANT TO A.C.A. 14-168-320; AND FOR OTHER PURPOSES.

Mayor Brodell stated the City Attorney would be included with any provisions naming the Mayor and Bond Counsel. Mayor Brodell requested the ordinance be adopted in order to get the new mall established so Jonesboro could reap the benefits of the sales tax in 2005. Councilman Moore moved, seconded by Councilman Farmer to suspend the rules and place on second reading. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. Councilman Moore moved, seconded by Councilman Dover to further suspend the rules and place on the third and final reading. Councilman Farmer explained the ordinance calls for Exhibit B "Project Plan", but it had not been provided. A member of Crews and Associates provided copies of the Project Plan to each council member saying they were the underwriters and the plan follows the letter of the law regarding the required provisions for T.I.F. Councilman Street requested a 10 to 15 minute recess be taken in order for council members to review the Project Plan. Councilman Moore asked for a vote on the motion that was on the floor. A voice vote was taken resulting in all members voting aye with the exception of Councilman Farmer who voted nay. Those members voting aye were: Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. Councilman Moore asked if the council could adjourn for 10 minutes to review the project plan. Councilman Farmer moved, seconded by Councilman Moore for a 10 minute adjournment. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. Mayor Brodell reconvened the meeting. Councilman Farmer suggested criteria be established for T.I.F. He explained this was a good project, but there was a need to establish criteria for T.I.F. projects with legal counsel so not to be found arbitrary and capricious in their decision. Mayor Brodell asked for a vote. Councilman Perrin moved, seconded by Councilman Moore for the adoption of the ordinance. It was explained since there was not emergency clause the Finance Committee would review criteria for T.I.F. projects. The ordinance was assigned ordinance number 3480.

Councilman Street moved, seconded by Councilman Moore for the adoption of a resolution authorizing the Mayor and City Clerk to enter a contract with Gateway Engineering for the decommissioning of (16) monitoring wells at the City of Jonesboro Class IV Landfill. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. The resolution was assigned number 2004:56.

Councilwoman Williams moved, seconded by Councilman Dover for the adoption of a resolution authorizing the Mayor and City Clerk to enter a contract for State Job No. 100571 with the Arkansas State Highway Commission for the Craighead Forest ATV Trail project. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. The resolution was assigned number 2004:57.

Councilman Moore moved, seconded by Councilwoman Williams for the adoption of a resolution authorizing the Mayor and City Clerk to enter a contract for State Job No. UCF04-07 with the Arkansas Forestry Commission for the Craighead Forest Urban & Community Forestry Grant. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. The resolution was assigned number 2004:58.

Councilman Moore moved, seconded by Councilman McCall for the adoption of a Resolution establishing a moratorium for application for consideration of or approval of Residential (R-2A) or Residential (R-3) rezoning classification requests. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. The resolution was assigned number 2004:59.

Under new business by the Mayor, Mr. Jim Stark with V.D.C.I, Mosquito Control provided a written report regarding activity for the month of June. He explained there had been rumors that service had decreased with the denial of a pay increase by the Jonesboro City Council. He stated that was not the case, and V.D.C.I. had provided more service since that time. Councilwoman Furr asked about

aerial spraying. Mr. Stark responded saying they fly on an as needed basis.

Under new business by the Council, Councilman Moore offered the following ordinance for first reading:

**ORDINANCE AMENDING ORDINANCE NUMBER 3450 ADOPTING THE 2004 ANNUAL BUDGET FOR THE CITY OF JONESBORO (Code Enforcement Officer)**

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 voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. 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 voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, 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, Dover, Furr, McCall and Roddy. The ordinance was assigned ordinance number 3481.

Councilman Moore offered the following ordinance for first reading:

**ORDINANCE AMENDING ORDINANCE NUMBER 3450 ADOPTING THE 2004 ANNUAL BUDGET FOR THE CITY OF JONESBORO (City Clerk)**

Councilman Dover moved, seconded by Councilman Moore 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, Dover, Furr, McCall and Roddy. 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 voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy. Councilman Moore 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, McCall and Roddy. It was explained that last year a salary survey was done that excluded elected officials, so a 3% increase was applied to each of their salaries. At the request of the Finance Committee, Ms. Hackney provided findings which showed all elected positions were in line with other comparable cities, with the exception of the City Clerk's salary which was substantially less. Condrey and Associates had recommended a range of \$47,000 to \$50,000, with the Finance Committee recommending \$47,000.00. The ordinance was assigned ordinance number 3482.

Councilman Street offered the following ordinance for first reading:

**ORDINANCE TO WAIVE COMPETITIVE BIDDING AND AUTHORIZE PURCHASE OF A RESCUE TRUCK FROM PIERCE MANUFACTURING; FOR THE APPROPRIATION OF FUNDS; AND DECLARING AN EMERGENCY**

Councilman Street moved, seconded by Councilman Furr 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, Dover, Furr, McCall and Roddy. Councilman Moore moved, seconded by Councilman Dover 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, Dover, Furr, McCall and Roddy. Councilman Moore 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, McCall and Roddy. Councilman Dover requested bids be taken and the information be provided to the Finance Committee for recommendation, for a secondary ladder truck. The ordinance was assigned ordinance number 3483. Councilman Dover requested bids be taken for a ladder truck because the money had been appropriated in the 2004 budget, and because the truck could be purchased at this time for a substantially lower cost. He requested the bids be referred to the Finance Committee with supporting documentation.

Councilman Farmer moved, seconded by Councilman Dover to accept the recommendation of the Public Works Committee for the creation of a temporary search committee for the position of City Planner to include the following individuals: MPO Chair, Joe Horsley; MAPC Chair, Ken Beadles; Personnel Subcommittee Chair, Harold Perrin; Planning Subcommittee Chair John Street; and Mayor Hubert Brodell. It was explained because Mayor Brodell was not running again, the committee felt having others involved in the selection process would provide continuity for persons applying for the position. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Farmer, Province, Hargis, Moore, Williams, Perrin, Street, Dover, Furr, McCall and Roddy.

Councilman McCall requested a report from the Planning Department be provided to the City Attorney detailing the status of what the Developer, Mr. Phillips (Bill's Fresh Market) has complied with for the purpose of pursuing civil litigation if appropriate.

Councilman Farmer announced there would be a meeting regarding city property and deeds for July 23, 2004, at 10:00 a.m. in the main lobby conference room of City Hall, located at 515 W. Washington. He explained Finance Director, Larry Flowers and his staff, Mayor Brodell and his staff, City Clerk Donna Jackson, and City Attorney Phillip Crego were asked to attend for the purpose of determining the process and to assure there was no duplication of work being done. City Clerk Donna Jackson was asked to provide copies of the APERMA contract which contains twenty-one and half million dollars of city property. Council members were invited to attend.

Councilman Farmer reported the Finance Committee requested an inventory of Street Department equipment and vehicles be taken within the next 30 days by the Finance Director and his staff.

Councilman Farmer explained there was confusion with a request for traffic signs at the last Metropolitan Area Planning Commission. He explained the traffic resolution was sent to the MAPC at the request of one of its members, who felt planning was not being addressed. He explained the Metropolitan Area Transportation Authority (MATA) is suppose to make recommendations on traffic signs, but has not met within the last five years, and therefore the Public Works Committee would be discussing the possible repeal of the MATA ordinance and the creation of an in-house Traffic Control Review Committee, at their next committee meeting.

Councilman Farmer reported the Finance Committee discussed and have requested Ms. Suzanne Hackney, Human Resource Director and City Attorney Phillip Crego to review the procedures to make sure employees who are running for public office do not campaign on city time. He asked that a report be provided at the next Finance Committee meeting to make sure procedure is in place.

Councilman Farmer explained part of the development agreement for Turtle Creek Mall is the digging of a ditch on Turtle Creek south of Highland. He stated there is concern if the City of Jonesboro has the equipment necessary to do the work. He explained the City has one large excavator that has had \$12,000 worth of repairs recently done on it, but is inoperable at the present time. He further explained the City of Jonesboro has five graders, but very few gravel roads, and even though the graders provide other functions, consideration should be given to trading some of the graders for an adequate piece of equipment to fulfill the commitment to the digging at Turtle Creek.

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