



## Legislation Text

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Minutes for the special called City Council meeting on June 29, 2006  
SPECIAL CALLED MEETING  
June 29, 2006

The Jonesboro City Council met Thursday, June 29, 2006, at 1:05 p.m. in a special called meeting of the Jonesboro City Council. A full quorum was in attendance. Present were: Mayor Doug Formon, City Clerk, Donna K. Jackson, and seven council members. Those members were: Farmer, Province, Hargis, Williams, Street, Dover, and Furr. Councilmen Moore, Perrin, Johnson, McCall, and Ashley were unable to attend.

Mayor Formon began discussions stating there was not enough members present in order to pass the emergency clause of an ordinance allowing the Finance Director to sign off on requisitions in the absence of the City Accountant. Councilman Farmer pointed out the mayor votes in order to make a quorum or to pass a measure, including the 2/3's vote needed to adopt an emergency clause.

Councilman Dover moved, seconded by Councilman Street for the adoption of a resolution to enter into a contract with Mr. Herb Davis as an independent contractor for the purpose of directing the Finance Department on an interim basis. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Williams, Street, Dover, and Furr. The resolution was assigned number 2006:78.

Councilman Dover offered the following ordinance for first reading:

AN ORDINANCE TO AMEND ORDINANCE NO. 3589 AND THE JONESBORO CODE OF ORDINANCES BY ADDING SUBSECTION (6) IN LIEU OF THE ABSENCE OF THE CITY ACCOUNTANT, THE FINANCE DIRECTOR SHALL NOTATE THE ABSENCE ON THE REQUISITION AND PROCESS THE REQUISITION IN PROPER SEQUENCE AS STATED

Councilman Dover 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 were: Farmer, Province, Hargis, Williams, Street, Dover, and Furr. Councilman Street moved, seconded by Councilman Dover for the adoption of the ordinance. A voice vote was taken resulting in all members voting aye. Those members were: Farmer, Province, Hargis, Williams, Street, Dover, and Furr. Councilman Dover 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, Williams, Street, Dover, and Furr. Mayor Formon cast the final eighth vote needed for the 2/3's majority. The ordinance was assigned number 3647.

Mayor Formon recognized Mr. Alan Young, Director of Information Systems, who commented on reports of Mr. Larry Flowers' letter of resignation and early retirement. Mr. Young explained the Springbrook Financial Software works the way it is suppose to and disagreed with Mr. Flowers' statements that the accounting problems were due to problems with Springbrook financial software. Mr. Young stated he was disappointed in Mr. Flowers' comments and that in his opinion the Information Systems (IT) Department had gone above and beyond what should be expected in the transition of the financial software. He further stated it was not his department's responsibility to do the accounting and bookkeeping. Mayor Formon acknowledged that the Jonesboro City Council had reluctantly went with Springbrook, an out of town software company, over a local company, but assured council members that the Legislative Auditors were in support of the accounting software. Mayor Formon explained under the old system changes could be made undetected, but with Springbrook changes are documented. Mayor Formon stated he was disheartened that Mr. Flowers would be in opposition to Springbrook now, given his history of recommending the financial software package in the past. Councilman Farmer explained it was a tough decision for the city council at the time, but the Information Systems staff and the Financial staff evaluated the software and strongly recommended it to the City Council. Mr. Young responded saying he still stands by that recommendation. Mayor Formon and Brian Wadley explained the problems are related more to of the employee rather than the software itself. They explained the long time employees have a more difficult time using Springbrook compared to the newer employees. Councilman Hargis questioned if this should have been recognized sooner rather than having it brought to light by the legislative audit. Mayor Formon responded saying he and everyone else had doubts about Mr. Flowers' decision making capabilities given his timidity, but he never doubted his ability to keep the books given the past nine audits with minor findings. He explained

when Mr. Flowers' was asked about the finances he always reported everything was fine, and always had an answer. Mayor Formon reported the auditors should have a letter available late this afternoon or early tomorrow on the status of the audit, and he would fax or email to everyone. Councilman Dover questioned if the new Internal Auditor and Finance Director should not be given training by Springbrook. Mr. Young stated it could be done in house, and Springbrook offers training in Portland, Oregon on a monthly basis. Councilwoman Furr commended Mr. Alan Young for stepping forward and clarifying things for committee members regarding the Springbrook software and accounting problems.

Mayor Formon provided a memo to city council members stating Ms. Linda Delmar, a Region IV FEMA Office Director, had called yesterday and stated they would be coming to Jonesboro on July 19, 2006, to begin a FEMA audit, and for now all building permits and certificates of occupancy would be on hold for any building in the flood plain and requested the governing body to be notified. Mayor Formon stated he thought the audit was first generated from a phone call placed by Teddy Hooton, Street Superintendent to FEMA, however he later learned it was going to happen sooner or later and Mr. Hooton's phone call only quickened the process. Councilman Dover inquired what takes place in a FEMA audit and Mr. Claude Martin, Public Works Director stated they check for any violations in the flood plain. Councilman Farmer questioned if FEMA stops work every time they do an audit. Mr. Martin stated he did not know. Mr. Brian Wadley responded saying no, not to his knowledge, and acknowledged FEMA had conducted two other audits since he has been employed by the City of Jonesboro. He stated when building in a flood plain contractors must obtain a pre-construction elevation certificate and once the work is complete they must get a post-construction elevation certificate. Mr. Wadley further explained in a FEMA audit they will drive the city with a (Firm) map, gauging projects built in the flood plain, determining if they were constructed according to the plan, seeing what permits were issued and if certificates are on file, making sure FEMA regulations were followed. Mr. Wadley explained if there is a project in the flood plain the project engineer is responsible for certifying the work before and after the project is completed. Councilman Farmer wanted to clarify that a letter he had written to Mayor Formon, found its way to FEMA, but not by him (Councilman Farmer). He explained in the letter to Mayor Formon he was trying to point out some potential problems the City had by the way things were being handled by city staff with regard to FEMA regulations and other matters in the flood plain. He stated he had emailed the letter on June 23, 2006, and then hand delivered it the first of this week. Councilman Farmer questioned how the letter got forwarded to FEMA. Mayor Formon explained Mr. Bernie Auld had sent a letter to Councilman Farmer regarding the Kohl's site on June 21, 2006, then on June 23<sup>rd</sup>, Councilman Farmer provided a letter regarding his concerns along with a copy of Mr. Auld's letter to Mayor Formon. Mayor Formon further stated not being an engineer, he referred the matter to Mr. Brian Wadley, Mr. Claude Martin, and Mr. Teddy Hooton stating he did not understand some of the acronyms referred to in the letter. Mayor Formon stated the next thing he knew they had gotten a call from Ms. Delmar saying permits were to desist and be stopped. He explained he called the staff back in to determine what had happened, and that is when he discovered Mr. Hooton had forwarded the letters (Mr. Auld's and Councilman Farmer's letters) to FEMA. Mayor Formon stated he did not think Mr. Hooton did anything wrong, he was just trying to get to the bottom of it. Mayor Formon stated the Public Works Committee had selected Mr. Bernie Auld has a Hydraulic Consultant, but Mr. Auld has not provided the contract to his office. Mayor Formon stated in Mr. Auld's letter he requested the FEMA Office be contacted for an immediate audit, and assumed that's where Mr. Hooton got the idea to forward the letters to FEMA. He reported in his conversation this morning with Ms. Delmar she stated over the last year she had received numerous complaints about the Kohl's site and the Turtle Creek Mall. Councilman Farmer, referring to his letter dated June 23<sup>rd</sup>, read from three different segments whereby he expressed concern over potential problems and questioned how it was a good thing to send the letters to FEMA, when they were trying to address these things before involving FEMA. He stated his letter and Mr. Auld's letter were very clear about concerns with the way things were being handled by the staff, and questioned how it could be interpreted to mean they needed to involve the FEMA office under these circumstances. Councilman Farmer stated the seriousness of the situation and the negative impact it could have on Jonesboro. Mr. Claude Martin, Public Works Director responded saying the problems began last October, (especially) with the Kohl's site when they requested a "conditional letter of map revision" but never received one. Discussion followed with Councilman Farmer questioning Mr. Martin on how the Carter Burgess hydrological information was not being reviewed by city staff prior going to FEMA. Mr. Martin stated the information that was sent to FEMA was sent in January, reviewed in February in the Mayor's conference room and stated Councilman Farmer was in attendance, but never said anything. Councilman Farmer explained he was not the Public Works Director, but Mr. Martin was. Mr. Martin stated following a particular city council meeting (whereby a resolution was adopted) requiring Mr. Martin to review matters involving the flood plain, Mr. Martin informed Carter Burgess he would begin reviewing everything that went to FEMA from that point on. Councilman Farmer questioned why he was not reviewing the material prior to the adoption of the resolution required him to do so. Mr. Martin responded saying it was all preliminary survey data. Councilman Farmer stated review of the preliminary survey data, is where suggestions and changes are to be made by the Flood Plain Administrator, who is Mr. Claude Martin. Comments followed regarding Mr. Auld's involvement with the Pines Apartments. Councilman Street stated Mayor Formon had indicated (according to Mr. Martin) that Mr. Auld was responsible for the Pine's Apartments lawsuit even though he was not the engineer of record. Both Mayor Formon and Mr. Martin denied ever making those accusations. Councilman Farmer explained Bernie Auld has kept committee members informed on the Carter Burgess project when the numbers were two times higher than that of the Corp of Engineers; when the BMP Manual was 20 times more stringent than the minimum regulations. Councilman Farmer explained the City Council had made it clear they wanted minimum regulations for their developments. He further stated Mr. Auld was the engineer who

developed the Turtle Creek Mall site that will remove 400 homes from the flood plain when the maps are revised; and has been the engineer used by the Industrial Recruiting Team for years for bringing in industry to Jonesboro. Councilman Farmer stated if he had to choose between the Public Works Department or Mr. Bernie Auld on critical complex drainage issues, he would go with Mr. Bernie Auld. Councilman Farmer stated there seems to be an attempt to discredit Mr. Auld. Mayor Formon responded, asking Mr. Brian Wadley to explain problems they had with Nestle' located in the Industrial Park. Mr. Wadley stated in 2001 Mr. Auld was hired by the Chamber of Commerce to take the Nestle' property out of the flood plain (Mr. Martin confirmed). Mr. Wadley stated back in February in a meeting which was attended by Mike Cameron and Councilman Farmer, the question was asked when the Butler Ditch project would be ready to send into FEMA, to which Mr. Auld indicated it was currently ready. Mr. Wadley stated he did the preliminary steps to forward the amendments to FEMA, but just recently (within the last two weeks) received the necessary information. Councilman Farmer stated Mr. Auld had the CLOMR in the office before construction was complete on Butler Ditch. Mr. Martin responded saying it was not a CLOMR but rather a LOMR which is to be sent in when the work is complete. Councilman Farmer questioned Mr. Martin with regard to who is to know when the work is complete, Mr. Auld or the Public Works Director. Mr. Martin stated Mr. Auld was in charge of the project. Councilman Farmer questioned who was responsible for the widening of the Butler Ditch project, to which Mr. Martin stated the City of Jonesboro. Councilman Farmer questioned who approved the Ima's site plan and the finished floor elevation for the City. Mr. Wadley responded saying David Harris approved the site plan, but Ima's was not in the flood plain. Councilman Farmer questioned who the Flood Plain Administrator was for the City of Jonesboro. Mr. Martin said he was. Councilman Farmer questioned who is responsible when a property is in the flood plain for making sure the finished floor elevation is not in the flood plain. Mr. Wadley and Engineer Jeremy Bevill responded saying Ima's was not in the flood plain. Mr. Mike Cameron responded saying neither is Kohl's. Mr. Martin responded saying the flood plain and flood way were moved at the Kohl's site, placing it in the flood plain. Mr. Cameron responded saying if that's the case then Ima's is in the flood plain too. Councilman Farmer questioned why city staff began holding building inspections on Kohl's. Mr. Martin explained it is a requirement of FEMA when the flood plain is removed you do a CLOMR. Councilman Farmer stated the site contractor had to redesign part of the site to build a berm in the wall which appeared to be protecting Ima's or else they would not receive any more inspections. Mr. Martin questioned why they did not get approval from FEMA. Councilman Farmer questioned why the city stopped building inspections at Ima's until the berm was built. Mr. Martin responded saying he had a letter from Mike Cameron and Dennis Zolper saying in two weeks everything would be resolved. Mr. Martin confirmed building inspections had been halted prior to the letter being received, and he was the one who halted the inspections. Mr. Bevill stated there were five deficiencies they wanted resolved. He explained they used BA flow information and once it was determined there was a lot of flow it was designed to protect Ima's. He further stated it was a whole new channel relocation causing Kohl's to touch the flood plain, but Ima's does not. Mr. Hooton stated there is no floor elevation for property not in the flood plain. Mr. Martin confirmed they had reviewed the preliminary flood maps and found no problems up to this point, and questioned what Councilman Farmer was implying. Councilman Farmer stated if people are being put in the flood plain that were not in the flood plain before, then the information should be challenged and should be questioned. He asked if this has been done. Mr. Martin indicated there were flood sways, causing some to be in the flood plain and others to be out. Councilman Farmer questioned if FEMA comments were being reviewed. Mr. Martin stated he was reviewing FEMA comments and did not see anything out of the ordinary. Councilman Farmer questioned the flows at Turtle Creek where the flows were twice as high as the Corp of Engineers' calibrations. Mr. Bevill stated the Corp of Engineers is from decades of older information. Councilman Farmer stated they were changed back closer to Corp flows and questioned how that happened. Mr. Martin and Mr. Hooton agreed they were changed, but did not know how it happened. Discussion followed on if the Corp of Engineers flows were calibrated. Mayor Formon stated at the suggestion of Mr. Bernie Auld, an engineer by the name of Mr. Tom Black was hired for a third party evaluation on the detention at Whiteman's Creek. Councilman Farmer questioned since the City is being audited by FEMA, they would review all these things. Mayor Formon confirmed FEMA would review everything. Councilwoman Furr questioned when FEMA gets complaints do they not refer those complaints to someone in the municipality. Mayor Formon and Engineering both indicated they had not been notified. Councilman Farmer stated according to FEMA regulations when the Flood Plain Administrator is given information, even though it may not be approved yet, if the flood plain has moved or if the elevation has changed, the new development is to notify them of the possible change. Mr. Bevill stated that had been done. Councilman Dover questioned how the City can allow something to be built that would place someone else in the flood plain. Mr. Cameron explained that is the question, whether or not that has occurred, he then stated the answer to the question is "No". Mr. Cameron stated the study is only an opinion. He explained he found out the early part of this week that maps were generated by the pilot study which showed who was in and who was out of the flood plain. He explained the way he found out was due to a client asking for a flood certification, so they looked at the 1991 maps, and began to process her certification, but in the mean time she goes to Jonesboro City Hall and comes back with new flood maps on the pilot study area that does not include Mr. Cameron's home or his offices. He explained he began to study the maps to determine who is in and who is out of the flood plain. He began naming several locations that will now be added to the flood plain, but explained the ones that are out of the flood plain was because Mr. Auld had gone through an approval process that is as extensive as FEMA, Corp of Engineers, and the General Services Administration. He stated the ones that are in the flood plain are because Carter Burgess has put them in under the CTP (Cooperative Technical Partners). Mr. Cameron described the calibration process and stated he contacted Carter Burgess in order to obtain their information, but was told the Engineering staff of the City of Jonesboro requested the information not be released. He explained through other means he found out his neighborhood is now in the flood plain, and with the

work being done at Lost Creek by City Water and Light, his shop will also be in the flood plain. Mr. Cameron stated in addition to being in the flood plain, the project he is working on at the Kohl's site is being shut down. Mr. Cameron stated it is the first time in Jonesboro, that he knows of, where the City has hired one consultant to check the work of another. Mayor Formon stated Mr. Tom Black was selected by Bernie Auld not by the city administration or city staff. He explained Bernie Auld selected Tom Black and the City is paying ½ the salary. Mayor Formon stated he was not excited about the audit, and he wished they had not shut down the permits in the flood plain, but he thinks someone needs to come and tell them what they need to do, and questioned are we doing things wrong or are we doing things right. Councilman Farmer stated it is frustrating to work for so many months trying to address these problems prior to FEMA being brought in and doing an audit. He stated this affects individuals who depend on a pay check from week to week, that it affects their homes and their lives, and it should have never gotten to this point. Mr. Cameron questioned how many projects would be shut down. Mr. Wadley stated everything in the flood plain. Several discussions were taking place at the same time, when Mr. Martin announced there are no new FEMA maps, to which Mr. Cameron responded saying then there is no problem, since Kohl's is not in the flood plain according to 1991 FEMA maps. Mr. Hooton stated it is not the building itself, but rather the ditch location. Mr. Bevill stated the Kohl's property touches the flood plain. Mr. Cameron questioned if a certificate of occupancy would be issued to Kohl's on July 14<sup>th</sup>, to which Mr. Wadley responded saying that is what the lady (Ms Delmar) called about yesterday, that all certificates of occupancy and building permits are halted. Mayor Formon stated if Ms. Delmar will allow it, he would agree to move forward with the project. However, Mr. Wadley stated part of her concern was FEMA not being notified of the relocation of the flood plain. Discussion followed regarding the relocation of the ditch, with Mr. Wadley explaining if the flood plain was not moved, then it was filled which is more serious. Mr. Cameron questioned if Mr. Wadley knew the process for placing the ditch that was, prior to it being relocated. Mr. Wadley stated it was a LOMR approved in the early 90's. Mr. Cameron explained it was approved by FEMA, approved by the Corp of Engineers, with the consultant being Mr. Bernie Auld, and the ditch was moved and the land from there all the way down including land just purchased by Northeast Arkansas Medical Center was designed by Mr. Auld. Mr. Wadley stated he would like to see the new FEMA maps that were provided to Mr. Cameron's client. Mr. Cameron stated it was on a disk supplied by Carter Burgess, and questioned who the woman got the new maps from in the City of Jonesboro. He questioned if city staff had approved the hydrology of the CPP yet. It was confirmed they had not approved it yet. Mr. Cameron stated he has a history in the area, and stated flows are increasing where they should not be increasing placing homes all over Jonesboro back in the flood plain. He warned when the flood ways are included on the maps, property will be taken from people like it was in 1980. Mr. Wadley responded saying years ago, back when federal funds were provided for four major channel improvements when Mr. Guy Lowes was City Engineer. He stated Mr. James Taylor and engineer with the Corp of Engineers warned then there may be increases in the flood plain when the final analysis is done. Mr. Wadley explained revised flood maps were suppose to be provided in the year 2000 based on the completion of the improvements in the four major channels. He stated Mr. Roger Lyons with the Corp of Engineers showed them a set of preliminary maps in 2000, that was supposed to be ready in six months, but it never happened. Mr. Wadley stated they have not had any new maps since the channels have been widened. Councilman Dover again questioned how the City could allow someone to build in the flood plain, when the direction taken since he has been on the City Council was to require developments hold their own water by the use of detention ponds. Mr. Cameron explained there are times when a detention pond is detrimental, such in the case of Kohl's, and that is why we have the regulations of FEMA and the Corp of Engineers. Councilwoman Williams referring to Mayor Formon's memo, asked if city council members would be provided access to the follow up letter coming from Ms. Delmar and if they could find out the nature and source of the complaints filed with FEMA. She requested this information be contained in Ms. Delmar's letter. Councilman Farmer explained with the drainage study and the CTP project, the drainage study was to be completed with improvements so it would affect the CTP project, however Carter Burgess has not provided the improvements and that was one reason why they wanted to bring in a hydrological engineer to review these things. Councilman Farmer explained the Kohl's controversy is why Mr. Auld has not turn in a contract during this time. He explained they want to get these improvements in to the map revisions. Mr. Wadley agreed and stated Carter Burgess had informed him, Claude and Teddy that they were finalizing the plans based on the public meeting held in May. Once again Mr. Cameron questioned if Kohl's is not in the flood plain (as stated by the engineering staff) could he proceed with the work. Mr. Wadley stated they would have to wait on Ms. Delmar to answer that question. Councilman Farmer questioned when the stop order took effect. Mr. Wadley responded saying Ms. Delmar stated it was to stop immediately, so he informed Planning and Inspections to stop yesterday. Mr. Wadley further stated we are anticipating an avalanche and it hasn't started snowing yet.

With no further business Councilman Farmer moved, seconded by Councilwoman Williams to adjourn the meeting.