



## Legislation Text

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Minutes for the City Council meeting on December 7, 1998

The Jonesboro City Council met Monday, December 7, 1998, at 6:30 p.m. A full quorum was in attendance. Present were: Mayor Hubert Brodell, City Clerk, Donna K. Jackson, City Attorney, Phillip Crego and 10 council members. Those members were: Kelton (Arriving at 6:35 p.m.), Rorex, Province, Davis, Tate, Crockett, Rega, Pratt (Arriving at 6:50 p.m.), Perrin (Arriving at 6:50 p.m.), Bowers, and Roddy. Councilmen Perrin, Pratt, and Kelton were a few minutes late due to previous business obligations. Councilman Young and Councilman Crockett were unable to attend.

Councilman Tate moved, seconded by Councilman Roddy to approve the minutes from November 16, 1998, as delivered. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy.

The following ordinance had been read three times previously:

**ORDINANCE TO AMEND ORDINANCE NO. 954 KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES AND FOR OTHER PURPOSES (Jay Gunter / Scott Emerson)**

The decision was made to move this matter to the bottom of the agenda, allowing for the arrival of Councilman Perrin who was expected shortly. After addressing all items on the agenda, except for New Business, Council returned to this rezoning matter. Attorney Scott Emerson requested Council to amend the ordinance to eliminate the emergency clause. Discussion followed regarding the legalities of amending the ordinance once it has been read three times. Councilman Bowers stated once an ordinance has been amended it must start over on the first reading. City Attorney, Crego agreed with Councilman Bowers, stating that was correct if the meaning of the ordinance had been changed. Attorney Emerson stated he was not changing the meaning of the ordinance, only to remove the emergency clause. Mr. Emerson explained absence of the emergency clause means the ordinance would not go into effect for thirty days, whereas with an emergency clause the ordinance would take effect immediately. Mayor Brodell explained with an emergency clause the ordinance would require eight votes of the council for its adoption, but without an emergency clause it would only require seven votes of the council. Someone from the audience asked why was the ordinance was an emergency at the last meeting, but not at this meeting. Mrs. Gunter responded by saying the purchase of the property was dependent on the rezoning, but since that time they have purchased the property and the emergency clause was no longer needed. Mayor Brodell stated there had already been a motion and a second for the adoption of the ordinance (with the emergency clause) from the last council meeting. Councilman Tate explained the motion and second for adoption at the last meeting was withdrawn so the ordinance could be tabled. Councilman Tate stated if Mr. Emerson amends the ordinance it would have to be read three more times. City Attorney Crego agreed. Councilman Tate moved, seconded by Councilman Rega to amend the ordinance to eliminate the emergency clause. A voice vote was taken resulting in a six to four vote against the motion to amend. Those members voting nay were: Rorex, Province, Davis, Pratt, Bowers, and Roddy. Those members voting aye were: Kelton, Tate, Rega, and Perrin. Councilman Tate moved, seconded by Councilman Rega for the adoption of the ordinance, with the emergency clause. A roll call vote was taken resulting in a six to four vote against the motion for adoption. Those members voting nay were: Rorex, Province, Davis, Pratt, Bowers, and Roddy.

Those members voting aye were: Kelton, Tate, Rega, and Perrin. The ordinance was denied.

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 (Jay Harmon)

Councilman Tate moved, seconded by Councilman Roddy to suspend the rules and place on second reading. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy.

Councilman Rega moved, seconded by Councilman Tate to further suspend the rules and place on third and final reading. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy. Councilman Tate moved, seconded by Councilman Rega for the adoption of the ordinance. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy. The ordinance was assigned number 3096.

Councilman Tate offered the following ordinance for first reading:

ORDINANCE TO AMEND ORDINANCE NO. 1718, ALLOWING FOR THE UNDERGROUND STORAGE OF PROPANE (UN1075), AND TO INCREASE THE MINIMUM CONTAINER SIZE TO TWENTY FIVE GALLONS.

Councilman Tate moved, seconded by Councilman Roddy to suspend the rules and place on second reading. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy.

Councilman Tate moved, seconded by Councilman Roddy to further suspend the rules and place on third and final reading. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy. Councilman Rega moved, seconded by Councilman Roddy for the adoption of the ordinance. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy. The ordinance was assigned number 3097.

Councilman Davis moved, seconded by Councilman Bowers approving the placement of a mobile home at 7106 Taylor Lane as requested by Mr. and Mrs. John Duncan on behalf of John's 98-year-old grandfather, Mr. Roy F. Duncan. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Bowers, and Roddy.

Councilman Tate moved, seconded by Councilman Davis for the adoption of a resolution setting a public hearing to vacate and abandon right-of-ways located in the North Acres Subdivision as requested by Mr. Jerry Craft. The public hearing was set for 6:00 p.m. on December 21, 1998. Reverend Richardson commented that two separate petitions had been filed in the clerk's office and questioned if the hearing was regarding one of those two petitions or would the hearing be about something else. Mayor Brodell stated it was his understanding that the streets in the North Acres Subdivision belong to the City of Jonesboro. Reverend Richardson stated his congregation would not have built had there not been city streets to their building. Councilman Rorex questioned if an agreement had been reached between Mr. Richardson and Mr. Craft.

Reverend Richardson stated it was his understanding that the matter had been dropped, so he had not met with his board of directors, but planned to do so soon. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Pratt, Perrin, Bowers, and Roddy. The resolution was assigned number 1998:78.

Councilman Davis moved, seconded by Councilman Tate for the adoption of a resolution requesting City Water and Light to provide free service to the new flight station, located at 4114 Lindberg Drive, at the Park Maintenance Building located at 202 E. Gordon, and for a Police Substation, located at 600-A Marshall Street. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Pratt, Perrin, Bowers, and Roddy. The resolution was assigned number 1998:79.

Councilman Tate moved, seconded by Councilman Davis for the adoption of a resolution placing speed and warning signs on Craighead Forest Road. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Pratt, Perrin, Bowers, and Roddy. The resolution was assigned number 1998:80.

Mayor Brodell pulled a resolution (Agenda Item 9) establishing and authorizing a joint committee to determine payment in lieu of taxes for companies seeking Act 9 Bond issues. Mayor Brodell explained he needed more time to discuss the matter with the County Judge.

Councilman Tate moved, seconded by Councilman Kelton for the adoption of a resolution modifying the Wage and Salary Management Plan to increase and establish specific grade levels. The positions effected were:

- (1) The position of Building Maintenance Supervisor, salary grade level Exempt #2, is being replaced with the position of Director of Physical Plant Operations, salary grade level Exempt #5.
- (2) The position of Maintenance Technician is being created at a salary grade level of Non-Exempt #3.
- (3) The position of Information Systems Director is changing from a salary grade level of Exempt #7 to the salary grade level of Exempt #8.
- (4) The position of Network Coordinator/System Tech is changing from a salary grade level of Non-Exempt #3 to the salary grade level of Exempt #4.
- (5) The position of Computer Programmer/Analyst is changing from a salary grade level of Exempt #1 to the salary grade level of Exempt #5.

A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Pratt, Perrin, Bowers, and Roddy. The resolution was assigned number 1998:81.

Mayor Brodell pulled Agenda Item 11, a resolution to incorporate the Drug-Free Workplace and Non-DOT Drug Testing Policy in to existing personnel policies. Mayor Brodell stated questions had arisen regarding the resolution, and requested time to discuss them with Human Resources Director, Michael Beeman.

Councilman Rega requested the appointment of Mr. Dave Kroeter to the Parks Advisory Committee be held for the purpose of allowing the Parks Committee time to review the appointment prior to Council taking action.

Under new business, Councilman Pratt offered the following ordinance for first reading:

AN ORDINANCE TO AMEND SECTION 2.20.02 OF THE JONESBORO CODE OF ORDINANCES ESTABLISHING PROVISIONS FOR CALLING A SPECIAL MEETING AND FOR OTHER PURPOSES

Prior to reading the ordinance Councilman Pratt added the phrase, “by giving at least 48 hours notice of such special meeting” to Section 1B. Councilman Tate moved, seconded by Councilman Kelton to suspend the rules and place on second reading. Councilman Bowers raised the question what would happen if the City of Jonesboro was faced with an earthquake and needed to call a special meeting immediately. Mayor Brodell stated according to the ordinance there would be nothing that could be done. Councilman Bowers stated in his opinion the ordinance could have been written differently. Councilman Pratt stated the reason he brought the issue up was to clarify what notification is, and to establish a procedure for calling a special meeting. Councilman Tate stated those questions had been answered by City Attorney, Crego at the last meeting. Councilman Rega stated in his opinion, Councilman Pratt was wanting to grand stand one more time and expressed a desire to get the matter over with. Councilman Pratt stated he was trying to bring Jonesboro ordinances up to state law. Mayor Brodell responded saying this has nothing to do with state law. Mayor Brodell stated the only requirement state law places on the mayor is to notify the media at least two hours prior to a special called meeting, and to make every effort possible to contact the council. Councilman Rega called for the previous question. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Rega, Pratt, Perrin, Bowers, and Roddy. Councilman Tate moved, seconded by Councilman Rega to further suspend the rules and place on third and final reading. A voice vote was taken resulting in all members voting aye. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Rega, Pratt, Perrin, Bowers, and Roddy. Councilman Rega moved, seconded by Councilman Kelton for the adoption of the ordinance. Councilman Rorex encouraged the Council to vote against the adoption of the ordinance, stating he could recall many times in the past when an emergency council meeting was necessary. Councilman Pratt stated, based on the legal opinion given by City Attorney Crego regarding the Jonesboro Code, Section 2.20.02, a mayor could call a special meeting and only notify the council members who would vote the way he wanted them to vote. Councilman Pratt explained he was not accusing Mayor Brodell of this, but wanted to eliminate the possibility of that happening in the future. Councilman Pratt stated in his opinion calling someone at 4:30 p.m. for a special called meeting to be held the next day at 7:00 a.m., is not sufficient notification. Councilman Tate responded by saying, if eight council members vote for something, then what difference would make if eight were there or all twelve the matter would pass regardless. Councilman Pratt answered by stating according to State Statutes, which quote previous legal cases, a meeting is not legal unless all members receive notification, whether they all attend or not. Councilman Pratt stated City Attorney, Crego only gave a legal opinion on the Jonesboro Code of Ordinances, not on the issue of notifying all the council members. Mayor Brodell responded by saying Councilman Pratt still has not provided a forwarding telephone number where he could be reached so he could be notified of special meetings. Mayor Brodell stated if Councilman Pratt was not home, nor his wife, then he (the Mayor) would not know how to locate him. Councilman Pratt stated at the time of the special called meeting he received a late notice of the meeting, then later received a letter from Mayor Brodell’s office stating a message had been left on his (Councilman Pratt’s) answering machine. Councilman Pratt explained his phone calls were being transferred, and he didn’t have an answering machine in that location, so it would be impossible to leave a message as the letter stated. A roll call vote was taken resulting in a nine to one vote with all members voting nay with the exception of Councilman Pratt who voted aye. Those members voting nay were: Kelton, Rorex, Province, Davis, Tate, Rega, Perrin, Bowers, and Roddy. The motion was denied. Councilman Tate requested City Attorney, Crego to rewrite Section 2.20.02 to clearly state the mayor may call a special meeting when necessary. Councilman Pratt requested City Attorney, Crego to include a clearly defined notification process.

Councilman Kelton moved, seconded by Councilman Rorex for the adoption of a resolution endorsing R. K.C.

B. LLC (Windchimes) to participate in the Arkansas Enterprise Zone Program. A voice vote was taken resulting in all members voting aye. Those members were: Kelton, Rorex, Province, Davis, Tate, Rega, Pratt, Perrin, Bowers, and Roddy. The resolution was assigned number 1998:82.

With no further business the meeting was adjourned.