



Legislation Text

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Minutes for the City Council meeting on March 2, 1998
CITY COUNCIL MINUTES- MARCH 2, 1998

The Jonesboro City Council met Monday, March 2, 1998, 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. Councilman Province arrived late to the meeting.

The minutes for February 16, 1998, were approved as delivered, by Councilman Roddy seconded by Councilman Rorex. A voice vote was taken resulting in all council members voting aye. Those members voting aye were: Kelton, Rorex, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher Bowers, and Roddy.

Council made the decision to address Item 4-F as the first order of business. Councilman Kelton offered the following ordinance for the first reading:

AN ORDINANCE TO REGULATE TOBACCO USE IN PUBLIC ACCESS BUILDINGS WITHIN THE CITY LIMITS OF THE CITY OF JONESBORO, ARKANSAS

Councilman Kelton moved, seconded by Councilman Rorex to amend the ordinance in SECTION IV (2) to read as follows, "That this ordinance is hereby amended whereby this matter shall be referred for a vote of the people at the General Election to be held November 3, 1998." A voice vote was taken resulting in all members voting aye. Those members voting aye for the amendment were: Kelton, Rorex, Davis, Tate, Crockett, Rega, Pratt, Young, Fletcher Bowers, and Roddy. Councilman Kelton moved, seconded by Councilman Rega to suspend the rules and place on second reading as amended. A voice vote was taken resulting in a 7 to 4 vote in favor of the motion. Those members voting aye were: Kelton, Rorex, Davis, Rega, Pratt, Fletcher, and Roddy. Those members voting nay were: Tate, Crockett, Young, and Bowers. The motion failed for lack of a 2/3 vote of the majority of the elected body. Councilman Province arrived at the meeting after this vote was taken.

The following ordinance was on the second reading:

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

Councilman Tate moved, seconded by Councilman Young to suspend the rules and place on third reading. Councilman Pratt stated he could not find a notification sign posted for this area. Mr. Brian Wadley of the Inspection Department circulated pictures showing the notification sign posted in the area. A voice vote was taken resulting in all members voting aye with the exception of Councilman Pratt. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Young, Fletcher Bowers, and Roddy. Councilman Tate moved, seconded by Councilman Young for the adoption of the ordinance. A voice vote was taken resulting in all members voting aye with the exception of Councilman Pratt. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Young, Fletcher Bowers, and Roddy. The ordinance was

assigned ordinance number 3034.

Councilman Rega requested Mayor Brodell to explain what will happen with the smoking ordinance so people interested in that issue may excuse themselves from the meeting. Mayor Brodell explained the matter would come up for second reading on March 16, 1998. The question was asked could the smokers get a petition together to stop the passage of the ordinance. Mayor Brodell responded by saying a petition was not needed to oppose the ordinance, and they would be allowed to voice their opinion at the next meeting without a petition. Councilman Bowers inquired as to how the fine would be collected. City Attorney, Phillip Crego stated according to the ordinance in Section III the violation is considered a misdemeanor offense, a criminal offense prosecutable in Municipal Court. Mayor Brodell questioned Mr. Crego as to the procedure for bringing a violator of the smoking ordinance to court. Mr. Crego stated the violator would be either given a citation or arrested by a Police Officer if the offense is committed in that Officer's presence or a person could come to the City Attorney's Office and fill out an affidavit alleging they saw an individual breaking the smoking law. Councilman Tate declared the Council should not have to make a decision on the smoking ordinance at all, and if the people want it on the ballot in the General Election let them walk the street and gather the signatures needed just like they did in opposition to the Hamburger Tax. Councilman Pratt questioned if the ordinance involved people smoking at doorways. Mr. Crego stated it is just those smoking indoors, that the ordinance even refers to indoor service lines. Councilman Tate disagreed with the City Attorney stating the ordinance says a property owner shall designate a smoking area, so if you are standing at the front door smoking and there is a smoking area around the corner then you can still be fined. Mr. Crego stated he did not see a violation for smoking outside. Councilman Tate questioned why have a designated smoking area if banning all smoking inside. Councilman Bowers stated the ordinance is telling business owners they do not have the mentality to govern their own business. Mr. Glen Morgan, a citizen, recognized by Mayor Brodell, stated he took a survey of twenty five people at a coffee shop and eighteen of them smoked, and therefore the City Council does not have the right to tell him where he can smoke and where he cannot smoke. Mr. Morgan further stated he pays \$3.15 in taxes on every pack of cigarettes he buys in the State of Arkansas, and it's not right. Councilman Pratt stated smokers pay tax dollars, but are not given a designated area to smoke in the building and have to go outside in the cold to smoke. Mr. Pratt said, "That's not telling us to get in the back of the bus, that's kicking us clean off the bus." Councilman Crockett moved, seconded by Councilman Pratt to table the ordinance indefinitely. City Attorney, Phillip Crego stated the motion would be improper since the ordinance was placed on first reading and does not come up again on the agenda until March 16, 1998. Councilman Pratt questioned if it could be brought up again under new business. Mr. Crego stated the question could be reopened under new business. Councilman Crockett withdrew his motion.

The following ordinance was on second reading:

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

Councilman Tate moved, seconded by Councilman Young to suspend the rules and place on third and final reading. 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. Councilman Young moved, seconded by Councilman Rega 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 3035.

The following ordinance was on second 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 Young moved, seconded by Councilman Tate to suspend the rules and place on third and final reading. 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. Councilman Young moved, seconded by Councilman Roddy 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 3036.

The following ordinance was on second reading:

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

Councilman Pratt moved that the ordinance be held on second reading, but failed for lack of a second to the motion. Councilman Pratt said he did not find notification signs up on the property. Councilman Rorex stated the signs were up Saturday, but Councilman Kelton stated they had been blown down when he went by today. Mr. Don Mixon, Attorney for a group of citizens opposed to the rezoning, stated he was concerned if each of the four tracks were posted. Mr. Wadley, of the Inspection Department explained posting is not a requirement, but is done as a courtesy to the public. He explained a sign had been on the property since January of this year, and an additional sign was added later. Mr. Gibson stated every effort had been made to see that the signs remain up. Councilman Tate moved, seconded by Councilman Rega to suspend the rules and place on third and final reading. A voice vote was taken resulting in all members voting aye with the exception of Councilman Pratt who voted nay. Those members voting aye were: Kelton, Rorex, Province, Davis, Tate, Crockett, Rega, Young, Fletcher Bowers, and Roddy. Councilman Rega moved, seconded by Councilman Young for the adoption of the ordinance. First to address Council was Bobby Gibson, of Bradly and Coleman Law Firm, he represented his father, Mr. Bob Gibson in the rezoning. Attorney Gibson read a definition of spot zoning to Council and explained this would not be spot zoning since there is substantial commercial zoning (C-3 development) in the area. Attorney Gibson explained his father is asking for C-4 zoning only as a concession to Mr. Clay Kenward, who was openly opposed to C-3 rezoning at the Metropolitan Area Planning Commission meeting. Mr. Gibson stated in the immediate area there exists 39 businesses and 18 billboard signs, therefore it is not primarily residential. Attorney Gibson further argued that the requested zoning conforms to Jonesboro's Land Use Plan as a village community concept (a mixture of multifamily homes and commercial businesses). Councilman Tate stated the community would better accept C - 4 zoning, and this zoning would also allow Mr. Gibson to do what he needed to do in the area. Mr. Gibson, Sr. stated C-4 is limited to 3000 square feet as a maximum and would be a problem for a daycare facility, or a nursery. Councilman Tate questioned if Mr. Gibson could not get a variance if a larger building was needed. Mr. Wadley replied that could be done. Mr. Gibson, Sr. stated he would not be opposed to C-4, provided he could get a variance. Councilman Kelton commented the Council could not guarantee a variance. Mr. Mixon, attorney for the opposition, drew attention to the Comprehensive Land Use Plan, regarding community commercial nodes. Mr. Mixon read from page 28 entitled "Uses" stating uses in a community commercial node should be more selective than those permitted in highway oriented commercial. He further contended that uses should be directed toward residential than commercial in community commercial nodes. Mr. Mixon stated it was a big step to take a piece of the area and make it C-3 or C-4 with no plan for what will be allowed there. He stated the community wanted to see the developer come forward with a comprehensive plan. Mr. Mixon read stipulations of the Metropolitan Area Planning Commission, saying there is confusion as to what they mean. One stipulation required a residential

look for commercial buildings. Mr. Mixon contended that was not an enforceable constriction against a future owner in commercial zoning. The next stipulation stated Mr. Gibson should follow through with voluntary deed restrictions for tract four on R-3 property to restrict apartments. Mr. Mixon stated they did not know what was meant by that particular stipulation. The final restriction that Mr. Mixon debated was a letter of opposition to be included with the minutes. Mr. Mixon stated there was no letter with the minutes furnished to him by the MAPC. He stated he was aware that Mr. Clay Kenward wrote a letter of opposition to the MAPC not just to C-3 zoning but to any commercial use, without a commercial plan. Councilman Tate questioned the definition of a village residential overlay zone with regard to the minimum required threshold of 75 acres. Councilman Tate was under the impression that the acreage was much smaller. Mr. Gibson stated it was 72 acres. Attorney Gibson reminded Council they had not applied for village residential zoning, because the ordinances are not in place, but even so it was voluntary. He also explained this was not what his father was trying to do, but rather the majority of the property would be Residential 1. Mr. Gibson stated that half the individuals in opposition to the rezoning already own commercial property in the area. Councilman Kelton reminded Council that the Land Use Plan has not been adopted, further more the use and locations are generalized. Councilman Tate moved, seconded by Councilman Young moved that Tracts 2 and Tracts 3 be amended to read C-4 instead of C-3, and that Tract 4 be amended with a Bill of Assurance and restrictions to limit no apartments. 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. Councilman Rega moved, seconded by Councilman Young for the adoption as amended. A voice 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 ordinance was assigned number 3037.

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 (Earl Brannon)

Councilman Young moved, seconded by Councilman Roddy 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 3038.

Councilman Kelton moved, seconded by Councilman Pratt for the adoption of a resolution to set a public hearing March 16, 1998, at 6:15 p.m., regarding the abandonment of an alley in Dudley's Subdivision as requested by Mr. Robert E. Marsh. 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 resolution was assigned number 1998:10.

Councilman Tate moved, seconded by Councilman Young to set an Appeal Hearing March 16, 1998, at 5:50 p.m. regarding denial by the Metropolitan Area Planning Commission to grant approval of site plans to add three apartment units to a lot with four existing units, located at 325 Leslie Ann Drive as requested by Mr. Mike Watson and his attorney, Mr. C.M. Mooney, Sr. Councilman Young questioned if Council was required to set an Appeal Hearing. City Clerk, Donna Jackson stated yes the Council is required by the Jonesboro Code of Ordinances to hear all appeals to decisions made by various commissions. Councilman Young stated Mr. Watson has come before MAPC and Council about every six months with the same request and has been denied repeatedly. Councilman Tate commented that the property owners filed suit against Mr. Watson and lost the

case, both at Circuit Court and the Supreme Court. Councilman Kelton reminded Council there was a Bill of Assurance in which the lots were dedicated for multi-family dwellings. 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.

Under new business, Councilman Kelton opened discussion on how Alderman will have to run in the 1998 Election since Jonesboro has reached a population of over 50,000. Arkansas Statute 14-43-303 states: (1) Alderman from each Ward shall be elected for a four year term; also that same year, (1) Alderman, (1) City Attorney, and (1) City Treasurer, shall be elected for a two year term. After the two year terms are up (the year 2000) then the city shall elect (1) City Attorney, (1) City Treasurer, (1) Municipal Judge, and (1) Alderman from each ward for a four year term, and every four years thereafter. Every two years thereafter the Council will run for a four year term (Staggered Terms). The Offices of Mayor and City Clerk shall become vacant in the year 2000 (Act No. 707) and shall be elected for a four year term. Councilman Roddy moved, to flip a coin with Position 1 being two years and Position 2 being four years. Councilman Tate questioned did that mean all Position 1's would run for two years and all Position 2's would run for four years. The response was yes. Councilman Crockett asked for clarification to Councilman Roddy's motion. Councilman Roddy repeated his motion, "Position 1 is two years, Position 2 is four years." Councilman Davis asked which is Heads, and which is Tails. Councilman Roddy stated it did not make any difference, and Mayor Brodell agreed they could decide before flipping the coin. Councilman Bowers suggested meeting in the City Attorney's Office and discussing the matter there. Mayor Brodell stated it needed to be voted on. Councilman Roddy rephrased his motion saying, "Tails is two years and Heads is four years." Councilman Pratt stated the Council must also decide on how the Alderman will be voted on, either City Wide or by Ward. He stated Jonesboro is getting too large to campaign city wide. Councilman Tate responded he represents all of Jonesboro, not just the ward he was elected in. Councilman Pratt stated a city wide election prevents the (little guy) from being able to run and running by Ward might get more people involved in the election process. Councilman Rega stated the deciding factor should not be on how hard it is to run a campaign, but representation of the people. Councilman Pratt stated everyone could be involved, that otherwise would not if it was a city wide race. Just because it is by Ward, does not mean that Alderman would not represent the whole city. Councilman Kelton stated the Wards are not equal, some being heavily populated others are not. Councilman Pratt stated by State Law all wards have to have a fairly equal amount. Mayor Brodell stated the Wards were within 5% of each other in population. Councilman Young asked for the motion on the floor. City Clerk, Donna Jackson repeated Councilman Roddy's motion, "To flip a coin for Position 1 and Position 2, Tails being two years and Heads being four years." Councilman Kelton asked the question, "Heads was what?" City Clerk, Donna Jackson answered, "Heads was four years, Tails was two years." Councilman Tate stated Position 1 is heads and Position 2 is tails and the winner gets four years. Councilman Roddy informed Councilman Tate he (Tate) had stated the motion backwards. Councilman Bowers stated it doesn't matter if it's two years or four years he is running for whatever position he wants to anyway. Mayor Brodell asked did any Alderman wish to address Councilman Pratt's issue regarding ward voting. Councilman Pratt asked City Attorney, Phillip Crego if ward voting could be discussed as a separate issue at a later date. Attorney Crego responded by saying State law requires you must choose but does not establish a method by which you do choose. The most common method, Mr. Crego stated was a flip of the coin. Councilman Pratt moved that the City Attorney flips the coin. Councilman Rorex stated we have not voted yet. Councilman Pratt asked City Clerk, Donna Jackson for another reading of the motion. Councilman Tate responded "Position 1 is Heads, Position 2 is Tails the winner gets four years." City Clerk, Donna Jackson corrected Councilman Tate, and repeated Councilman Roddy's motion. Discussion followed regarding what the actual motion was. Councilman Roddy withdrew his motion which had not been seconded. City Clerk, Donna Jackson requested comments be put in the form of a motion. Councilman Tate moved, seconded by Councilman Pratt to flip a coin, Position 1 being Heads, Position 2 being Tails and the winner of the flip runs for a four year term. 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. City Attorney, Phillip Crego flipped the coin. The coin turned up Heads, meaning Position 1 will run for a four year term.

Councilman Crockett moved, seconded by Councilman Kelton to set a public hearing for April 6, 1998, at 6:00 p.m. for the purpose of discussing the funding of the Community Development Block Grant Program. 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.

Councilman Crockett moved, seconded by Councilman Pratt to table indefinitely the ordinance to regulate tobacco use in public access buildings. Councilman Young recommended that Councilman Crockett change his motion to say that nothing be done by the Council and if the people want to petition to put it on the ballot, let them petition, but we are not going to make a decision one way or another. Councilman Rega questioned City Clerk, Donna Jackson as to the legalities of tabling a motion for an indefinite period of time. Mrs. Jackson stated yes, an ordinance may be tabled indefinitely. Councilman Young stated the net effect is they will have to get a petition to put it on the ballot. Mayor Brodell responded, "Unless a Councilman brings it back up." Councilman Pratt questioned if there was a time limit as to when the matter could be brought back up. Mayor Brodell asked City Clerk, Donna Jackson what the rule was regarding tabling. Mrs. Jackson stated the ordinance must be tabled or pulled three times, then it cannot be brought back before Council for one year. Mr. Glen Morgan asked for clarification. Mayor Brodell explained the motion on the floor was to table the ordinance indefinitely. Mr. Morgan asked if the ordinance could be brought back up again. Councilman Tate explained it could be brought back up but the intent was to have the people that are for this ordinance to go out and get a petition signed in order to get it on the general election. Mr. Morgan asked if the people opposed to banning smoking could do the same. Councilman Tate answered by saying if it is voted on in the general election the people opposed can only vote against it. Councilman Pratt explained the Hamburger Tax was a referendum but the Tobacco Ordinance would be an initiative. City Attorney, Phillip Crego agreed. 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.

Councilman Rega moved, seconded by Councilman Young for the adoption of a resolution requesting free service from City Water & Light for a city park located at 1123 S. Culberhouse. 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 resolution was assigned number 1998:11.

Councilman Rega called a meeting of the Personnel, Insurance, and Professional Services committee to determine a date for a formal meeting. The purpose of the meeting will be to discuss personnel matters and the renewal of TCA Cable franchise.

Councilman Pratt thanked Fox Meadow Elementary School and Mrs. Workman for inviting him to the class to read to the students.

Mayor Brodell asked Police Chief, Floyd Johnson to address Council regarding an ordinance to remove the Police Department from the provision of the Civil Service and the Board of Civil Service Commissioners. Chief Johnson explained this would only involve the Police Department not the Fire Department. He stated it would help the Police Department in being able to hire qualified Police Officers. It was explained the Police Department is needing to hire 18 to 19 new Officers and there is not that many who qualify on the Civil Service list. Chief Johnson stated there was no opposition to the ordinance and the ordinance would provide more benefits to the Officers. Mayor Brodell explained the ordinance abolishes Civil Service and establishes

Policemen's Bill of Rights. Mayor Brodell also informed Council is takes a two thirds vote to pass this ordinance. City Attorney, Phillip Crego stated the ordinance takes Civil Service out of the hiring process (physical and written exams) and institutes the Policemen's Bill of Rights which details an Officers appeal process through Federal Court rather than Civil Service. Councilman Young questioned if hiring procedures were in place if the Civil Service is abolished. Chief Johnson stated hiring procedures were in place, and the standards for hiring police officers would not be lowered. Mayor Brodell asked Council to review the ordinance for the next couple of weeks and if they had questions to contact Police Chief Johnson or City Attorney Crego.

In closing, Mayor Brodell commended Fire Chief, Wayne Masterson who will retire March 15, 1998, after thirty-two years of service to Jonesboro.

With no further business, the meeting was adjourned.