

Regular Meeting of the
Board of Mayor and Council
June 12, 2007

The Board of Mayor and Council met in regular session on June 12, 2007 at 7:00 p.m. in the Municipal Building.

Present and presiding: Mayor Gary Norwood.

Council present: Steve Allen, Tommy Nicholson, Dwayne Noe, Rick Johnson, Carol Macha, Chris LaCrosse.

Council absent: none.

Others present: Eddie Nichols, Lisa R. Cantrell, Mary P. Glasgow, Heather Lindeman, Ashley Pentecost, Gayle Sutton, Katharine Vachon, Charles D. Vachon, Darryl R. Carroll, F. D. Adcock, Glen N. Dodson-HFR, Mike Glasgow, Jerry Hamblin, Michael Armstrong, Marc Coulon, Ron C. Gossett, Anita Justice, Zach McCarver, Chris Camp, Wade A. Reed, P. Gupton, Penny Brooks, Zada Law, and Myrla Sproat.

Mayor Norwood called the meeting to order and began with the Public Hearing on Ordinance #334. He asked if anyone would like to comment and no one came forward. Mayor continued with Ordinance #335 and asked for comments and there were none so he closed the public hearing and continued with the regular meeting.

All present for the public hearing were in attendance for the regular meeting.

A motion was made by Noe, seconded by Macha to approve the May 2007 minutes as typed. The motion passed unanimously by voice vote.

Public Forum:

Ms. Sutton, 2650 Rock Springs, Charlotte, Tennessee approached the Council representing A O Smith asking the Council if they would waive the penalties on their April billing as she made a clerical error and keyed in the wrong amount for payment. Motion was made by Johnson, seconded by Macha to waive the penalty fees. The motion passed with a roll call vote of: Johnson-yes, Macha-yes, LaCrosse-yes, Allen-yes, Nicholson-yes, Noe-yes, and Mayor-No.

Katharine Vachon, 3398 Bell St. addressed the Council with concern over traffic speed and noise on their street. She stated that Bell Street is being used as a short cut to Hwy 12. Ms. Vachon stated there is racing on the street at night and that she is very upset and would like something to be done. Chief Coulon said he would be glad to increase patrol and do a 24 hour survey. Mr. Vachon approached and added that the problem is in the morning and evening hours and that there have been several accidents on Bell Street. Chief Coulon said he would put more weight on Bell Street. They thanked the Council for their help.

Zada Law, 1039 Riverview Lane, spoke to the Council about the rezoning of the Adcock property from R-1 to I-2. She said her property over looks his property. Ms. Law said that in 2001 when she purchased her property Mr. Adcock's property was used as pasture and the zoning map showed R-1. She said when you pay as much as she did you would check out the zoning of surrounding properties. Ms Law said with property zoned residential you would expect noise from lawn mowers, music, and children but you would not expect to hear loud diesel engines roaring. Ms. Law said that Mr. Adcock is using his property as industrial when it is zoned residential and that the industrial use has escalated. She stated that she brought this to the Council's attention over a year ago and nothing has been done. She is now being told that it will be rezoned to the original zoning of I-2. Ms. Law said that no city official has ever met with her at her home to see and hear the impact. Ms. Law stated she has several developer friends and when asked about coming to Ashland City she tells them she is not in favor of development. Ms. Law asked the Council to put off the rezoning until a solution can be found.

Penny Brook, 1045 Riverview, next door to Zada approached the Council. Ms. Brooks stated that she had asked Chancery court to enforce a writ of mandamus regarding the rezoning. She said what Mr. Hawkins had reported on the court ruling did sound like what she heard. Ms. Brooks gave the council members a copy of the Judge's finding and gave them a few minutes to go over it. She stated that not one place did the Judge say it should be zoned industrial. Ms. Brooks said he did deny the writ but could reinstate at a later time. Ms. Brooks stated that she feels Mr. Adcock is getting favorable treatment and that his property is becoming a major eyesore and noisy. Ms. Brooks stated that you don't rezone for the benefit of one person. She asked the Council to rethink the rezoning today – maybe put off until different categories are established.

Mr. Hamblin representing Mr. Adcock approached the Council. He said that the lawsuit was 2 pronged. One thing the city writ of mandamus neglected to order you to do was to perform a suit against Mr. Adcock on nuisance theory and it was not heard yet. The case was whether there should be a writ not the zoning. He said when the city annexed this property it was all brought in as residential this included the county property and the glass plant on Thompson Road. These properties have been rezoned to industrial. Mr. Hamblin said he finds it odd the very people asking you to do something are now asking you to do nothing. Mr. Hamblin said that pulling out one portion and making it residential wouldn't make a lot of sense. He said that the Council is caught in a dilemma and that Mr. Adcock is not pressing to do anything. Mr. Hamblin said this is industrial and should be put in industrial like the rest of the block. Mr. Hamblin said Mr. Adcock is committed to work with the city in whatever zoning is placed. He said they believe it should be industrial as this would be most logical and goes along with the zoning book.

Reports:

Ms. Noe reported to the Council that the Senate passed a new law regarding regulation on beer permits. She stated that a workshop was needed to discuss how the law works. After discussion with Council and Mayor, it was decided to advertise as a Beer Board meeting for 08-07-2007 before the workshop.

Old Business:

A motion was made by Macha, seconded by Nicholson to approve Ordinance #332-Rezoning portion of Thompson Rd on 2nd reading Mr. LaCrosse asked Ms. Noe her opinion as city attorney on the pending mandamus. Ms. Noe stated that under pending litigation there should be a meeting under attorney/client privilege which we have done. Ms. Noe said a mandamus is like a show cause and basically has 2 parts to the suit. The court felt the mandamus was premature as the city was looking at passing an ordinance. Ms. Noe said there was no specific ruling as far as zoning. The city is to look at prior zoning and our annexation Ordinance brings the property in as residential until you make a determination on the proper zoning.

Ms. Noe said that if you look at a county map it was all industrial. The glass plant has been there for years and the boat place and it has all been industrial use for quite a long time. Ms. Noe stated that Ms. Caton's recommendation is that they be zoned industrial and that the Planning Commission recommends that you rezone them collectively as industrial. The whole package has to be rezoned as industrial you can't separate only one property and if there is any change it has to go back to the Planning Commission. Mayor asked Ms. Noe if you change the zoning from R-1 to I-2 on 4 properties the map shows 5 tracks where is the 4th property. She said the glass plant has 2 separate tracks and that there are 3 owners and 4 properties. The motion passed by roll call vote of: Macha-yes, Nicholson-yes, Allen-yes, Noe-yes, LaCrosse-yes, Johnson-yes, and Mayor-yes.

A motion was made by Lacrosse, seconded by Johnson to pass Ordinance #334 - 07/08 budget on second reading. The motion passed by roll call vote of: Lacrosse-yes, Johnson-yes, Macha-yes, Noe-yes, Nicholson-yes, Allen-yes, and Mayor-yes. A discussion ensued about the tax appraisals.

A motion was made by Johnson, seconded by LaCrosse to adopt Ordinance #335 – Ethics on second reading. The motion passed by roll call vote of: Johnson-yes, LaCrosse-yes, Macha-yes, Allen-yes, Nicholson-yes, Noe-yes, and Mayor-yes. Mayor asked that Ms. Schaeffer put it on the agenda for July to set a date for training for the Council on Ethics and for Mr. Hawkins to set a date for employee training.

Mr. Hawkins stated that he wanted Council to understand the new budget is a revenue neutral budget but that some people will get a tax increase due to new valuation of property.

New Business:

R.A.C. Update

Mr. Camp told the Council that he had met with TDOT today and spoke with Neil Hanson. He advised that the bids had been turned into the state and that their construction department has 30 days to review. He reminded Mr. Hanson that he had 2 days to give some direction. Mr. Camp said he told him that the city wants to know if they can add money or should they proceed with the \$900,000.00 that has been set aside. Mr. Camp

said he asked if the money received today from the Road Scape program be moved into Phase 1. He asked how this was to be administered. Or could all of Phase 3 be moved into Phase 1. He has no problem if you move \$97,300.00 on Phase 1 & 80/20 to make up the difference on 20% over and above \$115,000.00. Mr. Camp said if you add \$162,000.00 and 12,000.00 then subtract the \$115,000.00 that is what you would have to pay. This is less than \$50,000.00 and could move everything forward. Mr. Camp said that you can't do anything until the construction division makes a decision. These changes do not reduce the bottom line and will not add to the bottom line. After additional discussion between Mr. Camp and Council, it was decided to wait to hear back from TDOT and then call a special call meeting to determine how to proceed.

Mayor recommended that we terminate our relationship with the State Planner as we have the county planner and our codes department to do the work. A motion was made by Johnson, seconded by Macha to terminate our contract with the State Planner. Mr. Allen asked if we terminate this contract would there be any problem later. Ms. Noe said she was not aware of any. The motion passed with roll call vote of: Johnson-yes, Macha-yes, Noe-yes, LaCrosse-yes, Allen-yes, Nicholson-yes, and Mayor-yes.

A motion was made by Johnson, seconded by Noe to approve LGDPC hardware/software yearly support contract in the amount of \$26,938.19. Mayor asked if you should go with another company during the year how would you terminate this contract. Ms. Noe said either side could terminate with a 30 day notice and if Council wanted to enter into an agreement maybe you would be able to prorate payment and pay on a monthly basis. Mr. LaCrosse asked if the support is critical. Ms. Schaeffer answered yes support is used constantly. Mr. Johnson asked if the contract amount was paid in a lump sum. Mayor said payment is due in 30 days or there is a 1 ½% surcharge. Ms. Schaeffer said payment is due 08-01-07. Mr. Johnson and Mr. Noe withdrew their motion and second and it was decided to defer to next month. Ms. Noe to look at changing contract to pay monthly.

Mr. Hawkins said he reviewed the contract with Tyler Computer System this morning with Chief Coulon. He said the budget committee should get back together to make a decision. Mr. Hawkins stated he had called Tyler and went over the contract. He said there are two decisions that need to be made: 1) maintenance- 4 years at 4% ceiling or 5 years at 5% ceiling. Mr. Hawkins said he and Chief Coulon thought 5 years would be wiser. 2) 10% discount if we would move financials within one year. You would pay a \$10,000.00 payment to Tyler. If you amend the budget \$10,000.00 for financial it would lock into Tyler. Chief Coulon referred Council to page 2 bottom paragraph showing license agreement refund in 1 year. A motion was made by Johnson, seconded by LaCrosse to accept agreement on court/public safety with 10% discount; 5% for 5 years. The motion passed by roll call vote of: Johnson-yes, LaCrosse-yes, Macha-yes, Nicholson-yes, Allen-yes, Noe-yes, and Mayor-yes.

A motion was made by Noe, seconded by Macha to pay Lose & Associates invoice in the amount of \$3,541.87 and \$1,156.44. The motion passed by roll call vote of: Noe-yes, Macha-yes, Johnson-yes, LaCrosse-yes, Allen-yes, Nicholson-yes, and Mayor-yes.

A motion was made by Noe, seconded by Macha to pay W & O Construction pay request # 19 in the amount of \$174,754.55. The motion passed by roll call vote of: Noe-yes, Macha-yes, Nicholson-yes, Johnson-yes, Allen-yes, LaCrosse-yes, and Mayor-yes. Mr. Cherry said may be totally done the 2nd week in July.

A motion was made by Johnson, seconded by LaCrosse to pay Hart Freeland Roberts pay request in the amount of \$4,795.01. The motion passed by roll call vote of: Johnson-yes, Lacrosse-yes, Allen-yes, Macha-yes, Nicholson-yes, Noe-yes, and Mayor-yes.

A motion was made by Johnson, seconded by LaCrosse to pay W & O Construction odor control all three pay request in the amounts of \$25,503.30, \$8,910.00 and \$25,616.70 totaling \$60,030.00. The motion passed by roll call vote of: Johnson-yes, LaCrosse-yes, Allen-yes, Noe-yes, Nicholson-yes, Macha-yes, and Mayor-yes.

A motion was made by Johnson, seconded by Macha to pay the bills. The motion passed by roll call vote of: Johnson-yes, Macha-yes, LaCrosse-yes, Allen-yes, Nicholson-yes, Noe-yes, and Mayor-yes.

A motion was made by Johnson to adjourn.

Chief Coulon stated the Reserve Officer program is working well and he appreciated them very much. He said that Bell Street is used as a bypass and he will do a traffic survey.

Mr. Binkley said the Chamber is having a loan workshop 06-19-07 for low interest loans for small businesses at the library. He, also, stated that Merriman's Tea Room moved its location and will celebrate 06-30-07. He reminded everyone of Peg ram's 4th of July celebration.

A motion was made by Johnson, seconded by LaCrosse to adjourn.

Mr. LaCrosse asked Mr. Cherry about the grass situation in the lake. Mr. Cherry said he hadn't heard anything.

Mr. Cherry said that Billy Harris is chief operator and that Mr. Harris and Chris Dutton have received their certifications.

The motion to adjourn passed with 5-ayes and 1-nay from Mr. Noe. The meeting adjourned at 8:47 p.m.

Gary Norwood, Mayor

Phyllis Schaeffer, City Recorder