

## REGULAR MEETING – CAIRO MAYOR & COUNCIL – APRIL 28, 2014

The April 28, 2014 Regular Meeting was called to order at 6:00 p.m. in the Council Room at 101-B North Broad Street with Mayor Robert B. Burns, Sr. presiding. Present were Mayor Pro Tem Lannis Thornton, Council Members James H. Douglas, Kermit V. Gilliard, Jr., and Robert L. Gwaltney. Councilman Ernest W. Cloud, Jr. was unable to attend the meeting. Staff Members in attendance were City Manager Chris Addleton, City Attorney Thomas L. Lehman, and City Clerk Carolyn Lee. Cairo Messenger Editor Randy Wind and Times Enterprise Reporter Susanne Reynolds were also in attendance. There was also a large group of other people attending the meeting.

**INVOCATION:** The Invocation was given by Councilman Douglas.

### **APPROVAL OF MINUTES:**

**Regular Council Meeting – April 14, 2014.** Motion to approve minutes as submitted was made by Councilman Douglas, seconded by Councilman Thornton, and unanimously approved by all Council Members present.

### **DELEGATIONS: Mr. Chris Rudd**

Mr. Rudd stated that he had read in the newspaper that the Council had suspended his privileges at the Airport and was aware that there was a pink slip in his mail to pick up a registered letter, but he had not yet done so. He read biblical scripture from the book of Romans and referred to §91.303(a through f) - Aerobatic Flight - General Operating and Flight Rules. He stated that the FAA controlled airspace over the U.S., and there were no regulations over Cairo except the congested areas of the city. He referred to the Police Department having received calls, but added that he transitions over the City but does not do aerobatics over the City. He stated that he flies aerobatics at the Airport which was approved by FAA as the safest place, and he felt more comfortable since he was familiar with that area. He added that the City Manager and the FAA had asked him to move around; but he believed that over the runway he impacted no one but himself. He referred to the flight regulations noting that he was not a “stunt” pilot but a precision aerobatic pilot who had won many awards with a routine designed, not only for challenge, but for safety as well. He added that he did not violate any rules, and a municipality had no authority to suspend his privileges since it received federal funds; and a suspension would be a civil rights violation which could cause the City to have to pay back those funds. He did not consider what he was doing a nuisance, but a given right; and noise from the Airport was not a violation due to the duration. He advised that he would apply to the FAA for a specific area to practice, either for the City, near Graco and the industrial park, or west of the country club; and the FAA would approve. He added that not one person had come to the Airport to complain, and he only flew for an hour and twenty minutes. In closing, he stated that there were a lot of things more annoying—lawn mowers, the Cairo Band, etc.

Mr. Olin T. Sampson, 121 Ledford Rd., stated that he managed a mobile home park across the road from the Airport, and that Mr. Rudd did twists and turns over the park. He was concerned for safety reasons and did not believe that Mr. Rudd could guarantee control of the plane. He had not gone to the Airport to talk to Mr. Rudd and didn't mind the plane flying, if he kept it away from the mobile home park and the edge of the City.

Mr. Tommy Faircloth, 75 24<sup>th</sup> St., NE, stated that he had lived at that for 35 years. He reported that Mr. Rudd flew back and forth over this area often, and the loud noise interrupted his Sunday rest. He was a pilot himself and had trained at the Airport, but flew over only woods and fields due to possible stall-out, not over populated areas.

Mr. Homer Reid, 452 Doe Run Drive, stated that he had a problem with the noise from the plane, as he was located just east of the Airport; adding that, if he was outdoors, he was not even able to talk on his phone it was so loud. He noted that he liked aerobatics, but not the noise.

Mr. Jimmy Carver, 649 Old Thomasville Rd., complained of the noise level over his house and two of his neighbors' homes sometimes all day on Sunday. He had gone to the Airport but couldn't catch

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Mr. Rudd to speak with him, so he had called the City Manager. He had heard that Mr. Rudd also flew over the ball park where children were playing ball. He noted that he owned a Harley; but if he rode it around an area for two hours, he would get complaints about the noise.

Mr. Van Ponder, 348 Vereen Bell Rd., stated that he was a pilot of experimental aircraft and had a landing strip west of town, and that Mr. Rudd had permission to use it.

Ms. Faith Drewry, 3244 Capital Circle, SW, Tallahassee, Fl., stated that she was an aerobatic pilot also, and their high level of training made for safer, better pilots.

Mr. Larry Prince, 341 Waldron Rd., stated that he had been working since 1967 and flew a plane in an agribusines at the Airport since 1972. He had never had a complaint with noise; but when he started at the Airport, there were no mobile home parks in the area, and no Doe Run. He referred to Mr. Rudd as an experienced pilot, noting that aerobatics was more precision flying; and that the special aircraft used was much louder. He had experienced two engine failures himself, but not on other people's property. He had done some aerobatics when he was younger which he believed had made him more conscious than other pilots. His concern was that he might be targeted next regarding the noise.

Mr. Sidney Gainey, 376 Gainey Rd., stated that noise problems had been dealt with in the County for a long time but agreed with Mr. Prince and Mr. Rudd. He was a pilot himself and considered Mr. Rudd to be a safer, more proficient pilot than himself, adding that it was just as possible for his plane to go down.

Mr. Joe Porter, 244 Doe Run, stated that the plane always flew on weekends and suggested that Mr. Rudd might could vary his timing to fly during business hours during the week when people were not at home.

Ms. Mary Beth Rudd, 2851 Slash Ave., NE, stated that she had always lived within two miles of an Airport; and even though this was a small airport, it was still a public airport receiving public funds. She advised that Mr. Rudd worked during the week and could not practice then. In closing, she emphasized that if you live near an airport, there will be noise.

Mr. Gerren Prince, 1712 Meridian Rd., son of Mr. Larry Prince, stated that he worked seven days a week at times and making his living with an agricultural aircraft created noise. He added that Sunday was Mr. Rudd's day off; and if the noise law pertained to Mr. Rudd, it also pertained to himself.

Mayor Burns expressed his appreciation for the public attendance and commended those who spoke for their orderly conduct.

### **SPECIAL EVENTS:**

### **OLD BUSINESS:**

### **NEW BUSINESS:**

**Public Hearing – Conditional Use Request for a Church - C-1 (Neighborhood Commercial District) – 600 M. L. King, Jr. Ave., SW – Tax Map C7, Parcel 239 – Culbrinia T. Hodges, Owner - (Ella M. Metcalf, Mother).** Pastor Marie Reddick was present and stated that there had been a church located on the property previously, but they had outgrown the building. Her church had to move from their current building and needed to do so as soon as possible. She added that they would be near the park and would like to do a lot of outreach. After comments, the public hearing was closed.

**Conditional Use Request for a Church- C-1 (Neighborhood Commercial District) – 600 M. L. King, Jr. Ave., SW – Tax Map C7, Parcel 239 – Culbrinia T. Hodges, Owner - (Ella M. Metcalf, Mother).** The Southwest Georgia Regional Commission had recommended denial of the permit due to the property not meeting the requirements of Code Section 22-63 regarding ingress and egress, paved off-street parking, set-back lines, lot size, and planted buffer. The Cairo Planning Commission had not submitted a recommendation due to lack of a quorum for their meeting. Council Members discussed off-street parking, with Pastor Reddick stating that there was parking on the side of the building, and they would also use the vacant adjoining lot. She was

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requested to obtain assurance in writing from the property owner that the church would be allowed to park on the lot. During discussion, Atty. Lehman advised that he would recommend that the Council go ahead and take action to approve the request, subject to finding by City Manager Addleton that no less than 15 parking spots would be available; and if not, the permit would be suspended at the next meeting. Motion to that effect was made by Councilman Gilliard, seconded by Councilman Douglas, and passed with Council Members Douglas, Gilliard, and Gwaltney voting in favor. Councilman Thornton had left the dais for this matter and recused himself from voting due to a conflict.

**Appointment of Cairo Planning Commission Members (To fill terms vacated by Margaret Tyson, Tom Kimmel, and Donald Nickerson).** City Manager Addleton had advertised for interested citizens to serve on the Commission, and he and Building Official Brian Hayes had interviewed three candidates who had volunteered. Mr. Tom Brown of 133 Oakdale Rd., SE, Mr. James Gerth of 525 South Broad Street, and Mr. Ed Gravenstein of 1385 12<sup>th</sup> Ave., NW had been recommended to fill the three vacancies on the Commission. After review, motion was made by Councilman Douglas to appoint the three parties to the Commission, seconded by Councilman Thornton, and unanimously approved by all Council Members present. (Gerth and Brown – terms to expire 12/31/2016; Gravenstein - term to expire 12/31/2017).

**Rescheduling May 26, 2014 Council Meeting to Tuesday, May 27, 2014 due to Memorial Day Holiday.** After review, motion to approve the rescheduling was made by Councilman Thornton, seconded by Councilman Gilliard, and unanimously approved by all Council Members present.

### **OTHER BUSINESS:**

#### **Reports:**

#### **Reports from Mayor and Council:**

- Councilman Thornton reported that someone was suspected of living in a 5<sup>th</sup>-wheel camper at 504 9<sup>th</sup> Ave., NW. He also reported that the sidewalk was cracked in three sections at 10<sup>th</sup> St. and 6<sup>th</sup> Ave., NW. He requested that potholes located on 10<sup>th</sup> Ave., NW near Northside School be repaired.
- Councilman Gilliard requested that big holes located in the curve in front of the Chamber of Commerce be repaired.
- Councilman Gilliard requested that Attorney Lehman give his interpretation of the Rudd aerobatics matter.

#### **City Manager:**

- Reported that Scruggs had started on the southeast side with paving the 7½ to 8 miles of streets and would be moving to 20<sup>th</sup> St., NE after school was out.
- The Youth Fit Fest would be held at the Library and Davis Park on the following Saturday from 10:00 a.m. to 2:00 p.m.
- Cairo Planning Commission training would be provided by the Regional Commission on May 15<sup>th</sup> at 6:00 p.m. in the Council Chamber, with some Council Members stating that they would like to attend also.

#### **Attorney Lehman:**

- In response to Councilman Douglas' request, Atty. Lehman referred to general law regarding FAA control of noise which preempted local law. He also pointed out a specific case with regard to noise levels between Burbank, Ca. and a Lockheed testing facility that went to the Supreme Court in 1973. The vote was five to four against

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Burbank being able to place controls on the Lockheed facility; however, local airport proprietors who own the airports could regulate them. Adding that Mr. Rudd was right in the sense that use of the airport was a right, but the City owned it and could also promulgate general laws that did not discriminate. Councilman Douglas asked if the City needed to look at the noise ordinance with regard to airplanes, with Atty. Lehman responding that it would be difficult and expensive to enforce. He added that the complaints had not been about local crop dusters but about the recreational activities of Mr. Rudd. City Manager Addleton noted that Mr. Rudd's flying privileges had been suspended for an indefinite period of time per the letter that was sent to him and asked what the Council would like to do. Councilman Douglas advised that he had received more calls regarding this matter of noise and safety than any other issue since joining the Council, and asked if it was possible to file a complaint with the FAA; with Atty. Lehman responding that they would probably only offer a general reply and not be very helpful. City Manager Addleton inquired as to how the suspension of privileges at the Airport would be enforced; with Atty. Lehman responding that if no criminal law or ordinance was violated, it would be a civil action. Council Members discussed the fact that the Airport was located in the County, and that the County had passed a noise ordinance regarding time restraints and decibel levels. It was noted that many of the complaints had come from people outside the City limits, and Atty. Lehman suggested that that the City and County might work together to enforce a noise ordinance with the pilot. It was also noted that a compromise might be proposed with Mr. Rudd to limit his practice to a specific time so people could be prepared. A solution to the matter was not reached during the meeting.

**EXECUTIVE SESSION:** None

**ADJOURN:** There being no further business, the meeting was adjourned.

**APPROVED:**

**ATTEST:**

ROBERT B. BURNS, SR., MAYOR

CAROLYN B. LEE, CITY CLERK