

December Minutes
Commerce Civic Center
December 11, 2006
6:30 P.M.

The regularly scheduled meeting of the Mayor and Council was held on Monday, December 11, 2006 at 6:30 P. M. in the Commerce Civic Center Commerce Room, 110 State Street. The meeting was called to order by Mayor Charles Hardy and City Clerk Shirley Willis called the roll. Those in attendance were Mayor Charles Hardy, Mayor Pro Tem Dusty Slater, Council members Wayne Gholston, Donald Wilson, Mark Fitzpatrick, Bob Sosebee and Richard Massey, City Manager Clarence Bryant, City Attorney John Stell, one (1) member of the press and approximately fifty (50) citizens.

Mayor Pro Tem Dusty Slater gave the invocation.

Approval of Minutes

Councilman Wayne Gholston made a motion, seconded by Councilman Donald Wilson to approve the minutes of the regular November 13, 2006 meeting and the December 4, 2006 work session minutes as submitted.

The vote was unanimous.

Citizens or Delegations

Mayor Charles Hardy said there were two scheduled and he called on Hasco Craver for the first citizen.

A. Mr. Bob Moore – Representative of Toyota.

Hasco said he had two items. The first one was to thank City Manager Clarence Bryant, Police Chief John Gaisert and his department, Fire Chief Keith Whitfield, the Public Works Department, DDA Board, Pilot Club and numerous other agencies for helping to make the Hometown Holiday event a success.

The second item was he had guests with him and very importantly was that Mr. Bob Moore and Toyota had contributed \$25,000 to the DDA for the development of Spencer Park. Hasco stated it was a wonderful private partnership. He then recognized Mr. Bob Moore. Mr. Moore said he thought Hasco had said it all and he was happy to be a part of a company that gave back to the community. Mr. Moore said he forgot the check but DDA could trust him.

At that time Mayor Charles Hardy asked Mark Beardsley to make a picture of Mr. Moore and the other guests of Toyota with the Mayor and Council.

B. Mr. Frank Norton – Norton Agency

Mayor Charles Hardy introduced Mr. Norton and said he was a numbers guru. Probably everyone in the room has heard him at one time or another. Mr. Norton had put together a new program for Jackson County and would tie it into Commerce for his presentation. Mayor Charles Hardy said Mr. Norton had one of his associates, Will Cobb with him.

Mr. Norton said he had made presentations to the Kiwanis Club and the Jackson County Chamber of Commerce. He said he was an info junkie. He grew up in Gainesville and was the third generation of his family to continue the Norton Agency. In 1986 He began researching Northeast Georgia in detail. The presentation would attempt to make us understand what is happening below us and how it would affect us as it moves through us. Mr. Norton said the City of Atlanta was not going to move to us but through us.

Mr. Norton gave a presentation that was approximately one hour in length. He displayed his projections for the state from Gwinnett County all the way to Franklin County. He said that the growth dynamics were positive and directed toward our small part of the State. His projections in population growth by the year 2025 there would be 250,000 people in Jackson County. The average price of the single family home in 2006 was \$188,031. Mr. Norton said that in the City of Commerce the historical attributes would be maintained. The growth of the area would be along Interstate 85.

Mr. Norton explained the growth pattern from Gwinnett into Braselton, Jefferson and Commerce all the way into Franklin County. He showed the areas of development along the intersections and the type of developments. According to Mr. Norton the two corridors were office marketing and industrial development. The corridor that Jackson County and Commerce was located in was more industrial and the Commerce would retain a sense of “town”. Mr. Norton said that quality of life was what it was all about.

He also talked about the interchange at Martin Bridge Road being a likely section to be developed and it was located in Banks County. The pattern of development would extend on into Franklin County.

Councilman Bob Sosebee said that Suwanee was trying to create a downtown and Mr. Norton said they were spending millions of dollars to create one because they had not maintained those attributes.

Mr. Norton entertained any questions from the council or citizenry and he also said that he would be glad to come back and speak at other functions if that was desired.

Mayor Charles Hardy thanked Mr. Norton for the presentation and stated that the council would take a five-minute break before resuming the meeting.

5. New Business:

A. Planning Commission Hearing Items:

- 1) Ordinance to transfer variance and appeal procedures to the Planning Commission.

Mayor Charles Hardy said everyone had seen the ordinance. It was looked at when the work session was held. He asked for any questions. Hearing none he asked for a motion to adopt the ordinance which is made a part of these minutes.

Mayor Pro Tem Dusty Slater made a motion, seconded by Councilman Wayne Gholston to adopt the Ordinance as presented.

AN ORDINANCE

AN ORDINANCE TO AMEND THE CITY CODE OF THE CITY OF COMMERCE TO PROVIDE FOR THE POWERS AND DUTIES OF THE PLANNING COMMISSION, TO PROVIDE THAT THE PLANNING COMMISSIONS SHALL SERVE AS THE COMMERCE BOARD OF ZONING APPEALS AND FOR OTHER PURPOSES.

The Council of the City of Commerce hereby ordains that Section 2-73(d) of the Code of the City of Commerce, Georgia is hereby deleted and a new Section 2-73(d) is hereby inserted in lieu thereof to read as follows:

Section 2-73(d) Powers and Duties.

When the Planning Commission shall have organized and selected its officers and shall have adopted its rules of procedures, it shall have all the powers, duties and responsibilities set forth for the Planning Commission and for the Board of Zoning Appeals as set forth in the zoning ordinance for the City of Commerce, the City Charter, the City Code or as otherwise provided by law.

The previously existing Board of Zoning Appeals as appointed by the City Council is hereby abolished effective upon the adoption of this ordinance.

The Council of the City of Commerce hereby ordains that Section 5.03.005 of the Commerce Zoning Ordinance is hereby deleted and a new Section 5.03.005 is inserted in lieu thereof to read and follows:

Section 5.03.005 Public Hearing and Action.

The Board of Zoning Appeals shall hold a public hearing on the proposed use in accordance with Section 5.01.005. After the hearing, the Board of Zoning Appeals shall recommend approval, approval with conditions, table for further

action, or denial of the application. Within seven (7) days of its decision, the City Clerk shall so notify the applicant in writing. If the Board of Zoning Appeals fails to act on the application within sixty (60) days of its submission, the application is deemed to have been recommended for approval unless the application is tabled, postponed, or withdrawn. The application shall be presented to the City Council within thirty (30) days from the final recommendation of the Board of Zoning Appeals.

- A. The City Council may grant variances only upon finding that all of the following conditions exist:
1. There are extraordinary and exceptional conditions pertaining to the Particular piece of property in question because of its size, shape or topography; and
 2. The application of this Ordinance to the particular piece of property would create an unnecessary hardship; and
 3. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this Ordinance; and
 4. Such conditions are peculiar to the particular piece of property; and
 5. The special circumstances surrounding the request for a variance are not the result of acts by the applicants; and
 6. The variance is not a request to permit a use of land, buildings, or structures, which is not permitted by right or by conditional use permit in the Zoning District involved.

The yard and other space requirements of the Zoning District, which the property is located, may be reduced by the smallest amount that will permit reasonable use of the property as a building site. Such reduction of these space requirements shall constitute a variance. However, in no case shall the City Council permit any lot in a residential Zoning District to be used as a building site which isles than seventy-five percent of the Zoning District's minimum area and yard requirements as set forth in §2.03.

- B. In granting a variance, the City Council may impose any other conditions necessary to further the goals of this ordinance.
- C. The City Council may establish performance bonds to assure compliance with any requirements it has set for granting a Variance. Where a Variance is granted for a construction activity requiring a Building Permit, the Building Permit must be obtained and construction must begin within six (6) months of the issuance of the Variance. Otherwise, the Variance expires after six (6) months.

- D. Any person aggrieved by a decision of the City Council on an application for a Variance may petition the Jackson County Superior Court for a Writ of Certiorari within ten (10) days of the decision of the City Council.
- E. If the variance request is denied, then the same property may not be considered for a variance for at least six (6) months immediately following the denial of the variance by the City Council.

The Council of the City of Commerce hereby ordains that Section 6.07.005 of the Zoning Ordinance of the City of Commerce is hereby deleted and a new Section 6.07.005 is inserted in lieu thereof to read as follows:

Section 6.07.005 Board of Zoning Appeals Action

The Board of Zoning Appeals shall hold a public hearing on the matter in accordance with Section 5.01.005. After the hearing, the Board of Zoning Appeals may recommend granting the appeal or denying the appeal. Within seven (7) days of its recommendation, the City Clerk shall notify the Appellant in writing. The recommendation of the Board of Zoning Appeals shall be considered by the City Council at its next regularly scheduled City Council meeting and the City Council will make a final determination regarding the appeal at such meeting. Any person aggrieved by the decision of the City Council may petition the Jackson County Superior Court for a Writ of Certiorari within ten (10) days following the decision of the City Council.

Any ordinances in conflict with the provisions of this ordinance are hereby repealed.

This ordinance shall become effective upon the date of adoption hereof, the public health, safety and welfare requiring same.

It is so ordained this 11th day of December, 2006.

THE CITY OF COMMERCE

**By: S/Charles L. Hardy, Jr.
Mayor**

**Attest: S/Shirley Willis
City Clerk**

Mayor Pro Tem Dusty Slater made a motion, seconded by Councilman Wayne Gholston to adopt the ordinance as presented.

The vote was unanimous.

- 2) Ordinance to add "Office-Commercial-Residential (OCR) District to Zoning Ordinance

Mayor Charles Hardy said there was a strip of mixed use development and the residences within that district encountered problems with mortgage companies. The OCR District would help with insurance and also allow the light commercial and commercial uses to co-exist as well as maintain the residential status.

The ordinance is as follows and is made a part of these minutes.

AN ORDINANCE

AN ORDINANCE TO AMEND THE ZONING ORDINANCE, CITY OF COMMERCE, GEORGIA TO ADD A NEW SECTION 2.07.004 OFFICE COMMERCIAL-RESIDENTIAL (OCR) DISTRICT; TO AMEND SECTION 2.04.001, TO AMEND SECTION 2.03.002; AND FOR OTHER PURPOSES.

The Council of the City of Commerce hereby ordains that the Code of the City of Commerce, Georgia is hereby amended by adding a new section to be numbered 2.07.003 of the Commerce Zoning Ordinance, which section shall read as follows:

Section 2.07.003 OCR .OFFICE COMMERCIAL RESIDENTIAL DISTRICT

A. Purpose and Intent

The OCR District is composed of service business, light retail establishments generally designed to serve nearby residential areas, and low density single family residential development land. All businesses shall be those which are not objectionable by reason of odor, dust, bright lights, noise, vibration, or traffic congestion, and should, when possible, be conducted within a completely enclosed building.

B Principal Uses and Structures

Principal Uses and Structures shall be permitted in the OCR Office Commercial Residential District in accordance with the Section 2.04.001 of this Ordinance.

C. Accessory Uses and Structures

Accessory Uses and Structures shall be permitted in the OCR Office Commercial Residential District in accordance with Section 4.13 of this Ordinance.

D. Conditional Use

The following uses may be permitted within the OCR Office Commercial Residential District as a conditional use permitted in accordance with Section 2.04.001 of the Commerce Zoning Ordinance

1. Alternate Tower Structure
2. Temporary Building

The City Council of the City of Commerce, Georgia hereby ordains that the zoning ordinance for Commerce, Georgia is hereby amended by adding the OCR Office Commercial Residential Districts as a commercial district in Section 2.01.001 of the zoning ordinance.

The City Council of the City of Commerce, Georgia hereby ordains that the Zoning Ordinance for Commerce, Georgia is hereby amended by deleting the table contained in Section 2.04.001 permitted in conditional Uses and inserting in lieu thereof a new table as follows:

Type of Use	Zoning Districts														
	AF	AR	R1E	R1	R2	R3	R4	R5	C-1	OCR	C-2	CBD	M-1	M-2	OSD
Accessory Agricultural Bldgs.	P	P													
Accessory Commercial Bldgs.									P	P	P	P	P	P	P
Accessory Office Bldgs.									P	P	P	P	P	P	P
Accessory Convenience Retail Business									P		P	P	P	P	P
Accessory Residential Bldgs.	P	P	P	P	P	P	P	P		P					
Alternative Tower Structure	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Animal Hospital, Veterinarian Clinic	P								P	P	P				
Animals or fowl, meeting the definition of "Animal Units"	P	P													
Antenna, Government Owned									P	P	P	P	P	P	
Antenna, Satellite TV	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Art Studio									P	P	P	P			
Automobile Repair Garage									P		P	P			
Automobile Sales Lot											P		P		
Bank									P	P	P	P			
Bed and Breakfast		C							P	P	P				
Building Supplies											P		P		
Cemetery, Religious Institution		C	C						P		P	P			
Club/Lodge (private)									P	P	P	P			

Convenience Store										P		P	P			
Convenience Store/Gas Station/Fast Food Restaurant										P		P	P			
Daycare, Home		P	P	P	P	P	P	P			P					P
Daycare, Center		C				C	C			P	P	P	P			C
Dry Cleaning, Neighborhood										P	P	P	P			
Dwelling, Two-Family						P	P									P
Farm Equipment, Sales, Rental, Repair												P	P			
Farming, Commercial	P															

Type of Use	Zoning Districts														
	AF	AR	R1E	R1	R2	R3	R4	R5	C-1	OCR	C-2	CBD	M-1	M-2	OSD
Farming, General	P														
Feed, Seed Store									P	P	P	P			
Flower Shop									P	P	P	P			
Funeral Home									P	P	P	P			
Gas Station									P		P	P			
Garage, Private			P	P	P	P	P	P		P					
Gift, Specialty Shop									P	P	P	P			
Hardware, Paint Store									P	P	P	P			
Home Office	P	P	P	P	P	P	P	P		P					P
Industrialized Building			P	P	P	P	P	P							P
Kennel									P	P	P	P			
Kindergarten			C	C	C	C	C	C	P	P	P	P			
Laundromat									P	P	P	P			
Laundry and Dry Cleaning, pick up							C	C	P	P	P	P			
Livestock Quarter and Enclosures	P														
Manufactured Home, Class A		P					P								
Manufactured Home, Class B		P						P							
Medical, Dental Clinic									P	P	P	P			
Nursing Home									P	P	P	P			
Office, Professional									P	P	P	P			
Personal Care Home					C	C	C	C	P	P					
Place of Public Assembly									P	P	P	P			
Plant Nursery, Greenhouse	P								P	P	P				
Playschool					C	C	C	C	P	P	P	P			
Produce Stand	P								P	P	P	P			
Public Park, Bldgs, etc. owned and operated for public purposes				C	C	C	C	C	P	P	P	P			
Public Safety and Emergency Services			P	P	P	P	P	P	P	P	P	P	P	P	
Recreation Facility, Commercial		C							P	P	P	P			

Recreation Facility, Private		C	C	C	C	C	C	C	C	P	P	P	P			C
Religious Institution	C	C	C	C	C	C	C	C	C	P		P	P			C
	Zoning Districts															
Type of Use	AF	AR	R1E	R1	R2	R3	R4	R5	C-1	OCR	C-2	CBD	M-1	M-2	OSD	
Recycling Station									C							
Restaurant									P	P	P	P				
Retail Sales, General Merchandise											P	P				
Retail Sales, Household									P	P	P	P				
Retail Sales, Specialty									P	P	P	P				
Retail Services Establishments									P	P	P	P				
Riding Stable, Commercial	C	C	C													
School K-12, Private				C	C	C	C	C	P	P	P	P				
Shopping Center											P	P				
Signs	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Site-built Home	P	P	P	P	P	P	P	P		P						
Special Event (also see Section 2.23)									P	P	P	P				
Swimming Pool	P	P	P	P	P	P	P	P	P	P	P	P				P
Telecommunications Tower													P	P		
Temporary Building	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Upper Floor Residential Apartment												PI				
Utilities, Structures and Bldgs., Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Warehouse, Mini											P					

* Maximum 4 units per acre

The City Council of the City of Commerce, Georgia hereby further ordains that the Zoning Ordinance for Commerce, Georgia is hereby amended by deleting the Table in Section 2.03.002 Minimum Lot Size, Setbacks, Height and inserting in lieu thereof a new table as follows:

Zoning District	Minimum Lot Size			Minimum Sq. Ft. per Dwelling Unit/Min. Heated Floor Area	Minimum Yard Requirements				Maximum Height of Building
	Lot Area (sq. ft.)	Lot Size per Dwelling Unit	Lot Width (ft.)		Front setback from street right-of-way (feet)		Minimum Side Yard	Minimum Rear Yard	
					All other streets	Local Streets			
R1E	43,560	43,560	200	2,400/2,000	40	25	25	40	35
R1	32,670	32,670	100	2,000/1,600	40	25	20	40	35
R2	21,780	21,780	85	1,600/1,200	40	25	15	20	35
R3 Single-Family	12,500	12,500	75	1,000/1,000	40	25	15	15	35
R3 Two-Family	21,000	10,500	75	900/900	40	25	15	15	35

R4 Single-Family	11,000	11,000	75	900/900	40	25	15	15	35
Two-Family	31,500	10,500*	75	900/900	40	25	15	15	35
Multi-Family	31,500	10,500*	75	900/900	40	25	15	15	35
R5 Single-Family	11,000	11,000	75	900/900	40	25	15	15	35
MH Subdiv.	11,000	11,000	75	900/900	40	25	15	15	35
MH Park	11,000	11,000	75	900/900	40	25	15	15	35
A-F	--	--	--	--	--	--	--	--	--
A-R	43,560	43,560	200	1,800/1,400	50	35	30	40	35
C-1	--	--	--	--	30	25	No minimum side yard is required except 12 feet if any side yard is provided and 20 feet if abutting a residential district	No minimum rear yard is required except 12-feet if not abutting an alley and 20-feet if abutting a residential area	50
C-2	--	--	--	--	30	25			50
OCR Office-Commercial	-	-	-	-	30	25	Same as C-1	Same as C-1	50
Single-Family Residential	32,670	32,670	75	2900/2500H	40	25	15	40	35
CBD	--	--	--	--	See City of Commerce Design Guidelines				
M-1	--	--	--	--	50	35	No minimum side yard is required except 12 feet if any side yard is provided and 20 feet if abutting a residential district	No minimum rear yard is required except 12-feet if not abutting an alley and 20-feet if abutting a residential area	No limit
M-2	--	--	--	--	50	35			No limit

Be it so ordained this 11th day of December, 2006.

THE CITY OF COMMERCE

By: S/Charles L. Hardy, Jr.
Mayor

Attest: S/Shirley Willis
City Clerk

City Manager, Clarence Bryant said he had one question and that was the district to be covered in the OCR zoning. He said the ordinance did not address the district. Planner David Zellner said he had a map. The district would have to be handled in a different meeting.

Councilman Donald Wilson requested to abstain from the vote because of a conflict of interest.

Councilman Richard Massey made a motion, seconded by Mayor Pro Tem Dusty Slater to approve the ordinance as presented.

The vote was five (5) for (Bob Sosebee, Richard Massey, Dusty Slater, Wayne Gholston and Mark Fitzpatrick) one (1) abstained (Donald Wilson).

3) Bill Butler, JWB Realty Services LLC - Request for annexation and rezoning of 71.68 acres located on Wheeler Cemetery Road from A-2 in the County to M-2 and A-R in the City.

Councilman Bob Sosebee made a motion, seconded by Councilman Donald Wilson to approve the zoning for annexation from A-2 to M-2 and A-R on property located on Map 47, Parcels 005B and 31.

The vote was unanimous.

Mayor Pro Tem Dusty Slater made a motion, seconded by Councilman Richard Massey to approve the annexation of 71.68 acres located on Map 47, Parcels 005B and 31.

The vote was unanimous.

4) John Steinmetz, Horizon Commercial Properties LLC – Request for annexation and rezoning of 2.15 acres located on Hwy 441 from M-1 in the County to C-2 in the City.

Councilman Richard Massey made a motion, seconded by Mayor Pro Tem Dusty Slater to approve the zoning on Map 20, Parcel 004E, 2.15 acres from M-1 to C-2 for annexation into the city boundaries.

The vote was unanimous.

Mayor Pro Tem Dusty Slater made a motion, seconded by Councilman Bob Sosebee to annex Map 20, Parcel 004E, 2.15 acres into the city as a C-2 zoning.

The vote was unanimous.

5) Kendrick Scott, Wood Brothers Surveying – Request for annexation and rezoning of 19.88 acres located off Ridgeway Church Road from A-2 in the County to R-4 in the City.

Mr. Scott said he represented Ashwood Investments. They requested annexation and zoning of R-4 to develop and construct townhouses. According to Mr. Scott they would like for the council to consider the R-4 zoning and allow them to build 16 units per acre. Mr. Scott said if the 16 units per acre were not allowed it would deter the client from making a profit.

Councilman Bob Sosebee made a motion, seconded by Mayor Pro Tem Dusty Slater to concur with the Planning Commission recommendation and deny the zoning for annexation.

The vote was unanimous.

6) Tim Evans, 648 Ridgeway Church Road - Request for annexation and rezoning of 23.01 acres located on Map 20, Parcels 055 and 055-1 from A-2 in the County to A-R in the City.

Councilman Bob Sosebee made a motion, seconded by Councilman Richard Massey to approve the zoning for annexation from A-2 to A-R on Map 20, Parcels 055 and 055-1.

The vote was unanimous.

Mayor Pro Tem Dusty Slater made a motion, seconded by Councilman Donald Wilson to approve the annexation of Map 20, Parcels 055 and 055-1 with an A-R zoning.

The vote was unanimous.

B. Skateboard Ordinance

Mayor Charles Hardy said the City had looked at Athens-Clarke County regarding bicycles and skateboarding. If the council wanted to pursue an ordinance to prevent

skateboards along the sidewalks Attorney John Stell could take the notes and write an ordinance for adoption.

City Manager Clarence Bryant read a portion of the Athens-Clarke County ordinance.

Councilman Bob Sosebee said he was not at the work session but he would like for the City of Commerce to review ordinances from Winder, Hartwell, Monroe and Toccoa before adopting one for the City of Commerce. Councilman Sosebee said he was not in favor of making a twelve (12) year old a criminal and he did not think Commerce was in the same situation as Athens-Clarke County.

Councilman Bob Sosebee made a motion, seconded by Councilman Donald Wilson to table the item for ninety (90) days and give City Manager Clarence Bryant the authority to review and research other ordinances.

The vote was unanimous.

C. Social Security Ordinance

Mayor Charles Hardy called on City Manager Clarence Bryant to update the council on this item. City Manager Clarence Bryant said it was the recommendation of the City Attorney, John Stell that if the city required a customer to give their social security number an ordinance should be in place to authorize the City of Commerce to ask for the number. Attorney John Stell said the ordinance would give the City protection on the books for legitimate uses. According to the Federal Privacy Act the City would be required to inform the person of the following: the statutory or other authority for requesting the information, whether disclosure is voluntary or mandatory, what use will be made of the information, and the consequences, if any, of failure to provide the information.

The decision was for Attorney John Stell to have the ordinance ready for review at the January work session.

D. Commerce Land Holdings, LLC Utility Agreement

Mayor Charles Hardy asked City Manager Clarence Bryant to explain the agreement. City Manager Clarence Bryant said the agreement as of this date was the City of Commerce agreement. It would be sent to Commerce Land Holdings for their review and negotiations.

Mayor Charles Hardy asked if everyone was satisfied with the agreement as it was presented and if so authorization was given for City Manager Clarence Bryant to send back for review.

E. Jackson EMC Franchise Fee Ordinance

Mayor Charles Hardy said the ordinance was reviewed at the work session. Councilman Bob Sosebee said he wasn't at the work session but one thing was it was not a tax. The ordinance should say fee and not tax and it should be addressed in the agreement.

Attorney John Stell would add language in Section 2 by adding a paragraph 3 that would require JEMC to itemize as a fee and not a tax.

The ordinance is made a part of these minutes and is as follows:

Jackson EMC Franchise Ordinance

FRANCHISE ORDINANCE GRANTING PERMISSION AND CONSENT to Jackson Electric Membership Corporation (hereafter referred to as "Jackson EMC"), its successors, lessees and assigns, to occupy the streets and public places of the City of Commerce, Georgia (hereafter referred to as "the City") in constructing, maintaining, operating and extending poles, lines, cables, equipment, and other apparatus for transmitting and distributing electricity.

SECTION I. Grant of Franchise.

Be it ordained by the governing authority of the City that the authority, right, permission and consent are hereby granted to Jackson EMC, its successors, lessees and assigns, for a period of twenty five (25) years, to occupy and use the streets, alleys and public places of the City within the present and future limits of the City as from time to time Jackson EMC may deem proper or necessary for the installation, construction, maintenance, operation and extension of its facilities, which shall include, without limitation, overhead and underground poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections and other apparatus for the business and purpose of transmitting, conveying, conducting, using; supplying and distributing electricity, to reenter upon such streets, alleys and public places from time to time as it may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary or proper, in the judgment of Jackson EMC, to ensure safe and efficient service. Jackson EMC shall indemnify and hold harmless the City, its officials, employees, officers and agents, from any and all claims, demands, losses, actions, injury or damage, including costs of suit, attorneys fees and defense, both as to person and property, which is in any way caused by an act or omission of Jackson EMC, its employees, contractors, subcontractors, agents, successors or assigns or which in any way results from the exercise by Jackson EMC of its rights granted hereunder.

SECTION II. Conditions.

Be it further ordained that the rights, permission and consents herein contained are made for the following considerations and upon the following terms and conditions:

1. Jackson EMC shall pay into the treasury of the City on or before the first day of March, 2008, a sum of money equal to four percent (4%) of the gross sales of electric energy to all its customers located within the corporate limits of the City and served under rate schedules (as prescribed by Jackson EMC and filed with the Georgia Public Service Commission) from lines located on the streets, alleys and public places of the City during the period beginning on the first day of the month following the effective date of this franchise and ending on December 31, 2007, and on or before the first day of March of each year thereafter during the term of this franchise, a sum of money equal to four percent (4%) of the gross sales of electric energy to such customers during the preceding calendar year, on condition that, in the event the City shall grant any other entity the right to use and occupy its streets for like purposes, such use and occupancy shall be upon the same terms and conditions as those herein contained, including the payment provisions hereof. The payments required under this Section constitute a Franchise Fee and not a tax and Jackson EMC shall not designate the charge as a tax on any billing to its customers..
2. Nothing contained herein shall require Jackson EMC to surrender or limit its property rights created by this franchise without due process of law, including adequate compensation, for any purpose at the instance of the City or for any purpose at the instance of any other entity, private or governmental.

SECTION III. Annexation into Corporate Limits.

Be it further ordained that, notwithstanding anything herein to the contrary, Jackson EMC shall not be obligated to pay to the City the fee provided for herein, or any portion thereof, as to customers living outside the corporate limits of the City, and as to customers located within areas that, after the effective date of this franchise, are annexed to the corporate limits of the City, such fees shall not be required to be assessed before sixty (60) days after Jackson EMC receives written notice from the City that the City has annexed the territory in which said customers are located.

SECTION IV. Severability.

Be it further ordained that, in the event that any provision or portion of this ordinance should for any reason be held void, invalid, or unenforceable for any reason by any court of competent jurisdiction, such provision or portion shall be deemed a separate,

distinct and independent provision or portion, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION V. Notice.

Be it further ordained that all notices under this ordinance shall be made in writing and shall be delivered or sent by (a) first class, registered or certified mail, postage prepaid, return receipt requested; (b) guaranteed overnight delivery (such as Federal Express or United Parcel Service Next Day Air); or (c) hand delivery addressed to the address of the party in question as set forth below or to such other addresses as either party may designate by notice given pursuant to this Section. Notices shall be effective upon receipt by the notified party.

Notices to Jackson EMC:

Attn: President/CEO
P.O. Box 38
850 Commerce Highway
Jefferson, Georgia 30549

Notices to the City: City of Commerce

Attn: Mayor Charles L. Hardy, Jr.
P.O. Box 348
Commerce, Georgia 30529

SECTION VI. Effective Date.

Be it further ordained that the effective date of this ordinance is December 31, 2006, and fees levied herein shall begin to assess on the first day of the month following the effective date.

SECTION VII. Conflicts.

Be it further ordained that, upon acceptance by Jackson EMC of the terms and conditions of this ordinance, all laws and ordinances in conflict with this ordinance are repealed to the extent of such conflict.

SECTION VIII. Acceptance.

Be it further ordained that Jackson EMC shall, within forty-five days from the approval of this ordinance, file its written acceptance of the same with the Clerk of said City, so as to form a contract between the parties.

SO ORDAINED by the Mayor and City Council of the City of Commerce this 11th day of December, 2006.

CITY OF COMMERCE

Charles L. Hardy, Jr.

ATTEST:

Shirley Willis, City Clerk

Councilman Bob Sosebee made a motion, seconded by Councilman Mayor Pro Tem Dusty Slater to adopt the Ordinance as amended.

The vote was unanimous.

F. 2007 Beer and Wine Renewals

Mayor Charles Hardy read the list of renewals and emphasized that there were two pending receipt of the payment and application.

2007 Beer and Wine Renewals

<u>Company</u>	<u>Product</u>	<u>Amount</u>
Bay County Enterprises	Beer & Wine Package Sales	\$ 1,000.00
BP Food Mart # 2	Beer Package Sales	500.00
Deer Trail	Beer Consumption on Premises	500.00
Leon Farmer	Distributor (Beer and Wine)	100.00
Fast & Friendly # 2	Beer Package Sales	500.00
Flying J. Inc.	Beer and Wine Package Sales	1,000.00
Ingles Grocery	Beer and Wine Package Sales	1,000.00
Italia, Inc.	Beer and Wine Consumption on Premises	800.00
Jackson Food Mart*	Beer and Wine Package Sales	1,000.00
Kangaroo Convenience	Beer and Wine Package Sales	1,000.00
Northeast Sales	Distributor (Beer and Wine)	100.00

Opera House Italian Café *	Beer and Wine Consumption on Premises	800.00
Rays Corner Station	Beer and Wine Package Sales	1,000.00
RAZN, LLC (Fuel Market)	Beer and Wine Package Sales	1,000.00
Presto Convenience	Beer Package Sales	500.00
Saad Management d/b/a		
Cody Fuels	Beer and Wine Package Sales	1,000.00
Shell Food Mart	Beer and Wine Package Sales	1,000.00
Warren's Package	Beer and Wine Package Sales	<u>1,000.00</u>
	Total	\$13,800.00

Councilman Bob Sosebee made a motion, seconded by Councilman Mark Fitzpatrick to approve the list of renewals pending the receipt of all payments and applications.

The vote was unanimous.

G. Waste Management Solid Waste Contract Renewal

Mayor Charles Hardy said the company was doing a good job and there had not been a great increase in cost over the five year period. All the councilmen said they had not received very many complaints regarding the garbage service.

Councilman Donald Wilson, seconded by Councilman Wayne Gholston to approve the renewal of the Solid Waste Contract for another five year period, beginning on January 1, 2007 and continuing through December 31, 2011.

The vote was unanimous.

H. Natural Gas Cost Briefing

Mayor Charles Hardy reported that last year the City of Commerce purchased 74,000 MCF at a cost of \$1,100,000 and this year the purchase was 79,582 MCF at a cost of \$531,246.71. The cost was almost 48% lower this year than last year at the same time.

Councilman Bob Sosebee asked that Mr. Bryant explain the cost to the City of Commerce and then the customer cost. City Manager Clarence Bryant said that the \$3.25 margin was a constant that the city charged to customer. The spot price was paid for the gas and the cost went up and down each month. The cost variation was passed on to the customers. Mr. Bryant also said that the City had actually reduced the margin cost earlier to benefit the customers when the cost of gas was extremely high.

I. Georgia DOT Updated Speed Limit Ordinance

Mayor Charles Hardy said everyone had received a copy of the Speed Zone Ordinance as updated by DOT. He asked for any questions.

City Manager Clarence Bryant said the work had been done by an engineer by the name of Westmoreland from Cornelia, Georgia. Mr. Westmoreland was a retiree of DOT. Details were given within the ordinance regarding the signage and everything must be done prior to using radar.

The ordinance is on file in the City Clerk's office.

Councilman Bob Sosebee made a motion, seconded by Councilman Donald Wilson to approve the Speed Zone Ordinance as presented.

The vote was unanimous.

J. Demolition Bids

Mayor Charles Hardy went over the locations for the unsafe dwellings and the bids for demolition.

On 73 Duncan Circle the low bidder was Rucker Landscaping with a bid of \$1,500.00. The low bidder on 25 Holden Court was Athens Auto Wrecking, Inc. with a low bid of \$4,200. The 281 Shankle Road owner asked for an extension due to insurance handling problems.

Mayor Pro Tem Dusty Slater made a motion, seconded by Councilman Wayne Gholston to approve the low bidder of Rucker Landscaping for 73 Duncan Circle and Athens Auto Wrecking, Inc. for 25 Holden Court.

The vote was unanimous.

K. Activity Reports

Mayor Charles Hardy called upon Police Chief John Gaissert to give the Police Department Report. Chief Gaissert said that the Christmas Parade was a great success. The school's football played very hard; however they lost the game in the dome. The officers escorted the team back into town.

The chief briefly went over the drug arrests and there were 8 misdemeanor and 5 felony drug cases. Chief Gaissert said those cases were down, however the department was short of personnel because of medical issues.

Mayor Charles Hardy asked for any questions on other activity reports. He mentioned that the Fire Department had answered 31 calls. City Manager Clarence Bryant updated the council on the new policy by the new EMS Director that began in September. They were requiring the fire truck to go to the scene of every wreck. That caused twenty-five to twenty-eight non essential calls to be answered by the Fire Department at \$500/call. That policy would create an additional \$60,000 - \$65,000 to the Commerce Fire Department budget. Mr. Bryant had spoken with Crandall Jones, County Manager and he

was to get back with Mr. Bryant. Mayor Charles Hardy said that the policy before was for the department to answer entrapment or fire calls. The City of Commerce Fire Department had always had a good working relationship with the EMS.

Mayor Pro Tem Dusty Slater asked if any of the personnel overlap with rescue and fire and if the County was getting out of paying personnel. Mr. Bryant said the staff did not mind making the calls but funds were not budgeted for that additional expense.

Councilman Bob Sosebee stated that there had been a successful policy that worked in the past. Mayor Pro Tem Dusty Slater's opinion was that it was a knee jerk reaction to the article in the paper. Mr. Bryant said it would affect the ratio run.

The activity reports are as follows:

The Police Department had 2,350 calls from 911, 71 walk-in service calls at the police department and 178 SRO calls for a total call activity of 2,599. Accident reports were 24 and incident reports were 116 for a total of 140. The animal control reports were 45. The citations and arrests were 70 speeding, 17 suspended license/no license, 12 no insurance, 8 DUI, 3 public drunkenness/disorderly conduct, 2 shoplifting, 4 obstruction, 6 open container violation, 13 seatbelt/child restraint and 90 other for a total of 225. There were 3 assault/battery, 1 theft, 2 burglary, 8 misdemeanor and 5 felony drug cases to a total of 19 arrests. The total miles driven were 25,202.

The Fire Department answered 31 calls, 22 inside the city limits, 6 in the fire district, 3 outside the fire district, 3 structures, 6 grass and woods, 3 gas/electrical, 3 alarms, 15 vehicle/wrecks and 1 miscellaneous. The man hours for this period were 79.

The Department of Building Inspection had issued 9 building, 12 electrical, 5 grading/plumbing, and 11 sign/mechanical permits with a permit value of \$7,651.10. The fiscal year to date valuation was \$25,162,495 and the calendar year to date valuation was \$12,552,900.

The Building & Housing Inspections Code Enforcement Department had completed 87 new, 58 COP and 91 utility inspections. There were 53 follow ups, 28 letters written 144 walk-ins, 516 calls, 4 junk cars and 3 junk cars follow ups for a total month activity of 984. The burned dwelling at 281 Shankle Road was removed by the owner and sealed bids for demolition of unsafe properties at 25 Holden Court and 73 Duncan Circle were advertised and accepted.

The Water and Sewer Distribution activity was 3 new residential water and 2 residential sewer services added. There were 6 water and 1 residential services replaced. The turn ons were 90 water and 83 sewer and the turn offs were 76 water and 70 sewer. There was one hydrant replaced and 1 hydrant repaired. The work orders received were 45 and 33 were completed. There were 378 locates received.

The Gas Department activity was 1 meter set, 4 meter change outs, 1 meter removed, 1

meter maintained, 6 service calls, 6 leak calls, 2 damaged services, 353 locates and 116 inspections.

The Electric Department serviced 2 existing residential services, and added 2 new residential services. The size of load – AMPS added were 400 residential. There was 580' of secondary underground footage added. The cut offs were 76 and the cut ons were 82.

L. Financial Update

Mayor Charles Hardy asked Steve McKown to give the financial update. Mr. McKown said November had been another good month. The City started paying on the 6" HP Loop plus the electrical upgrade. To date the City was in the black with \$1.1 million; however for the month the reflection was \$35,000 in the red.

Report from the City Manager

City Manager Clarence Bryant told the Council that a letter came in after the agenda was prepared and the agenda went out. The correspondence was from Jackson County Certified Literate Program requesting the annual donation in the amount of \$2,385.00 for their program.

Mayor Charles Hardy said that was close to the City of Commerce percentage paid to the program on an annual basis.

Councilman Bob Sosebee made a motion, seconded by Councilman Mark Fitzpatrick to approve the donation in the amount of \$2,385.00.

The vote was unanimous.

The next item of Mr. Bryant was the Jackson County Area Chamber of Commerce ribbon cutting ceremony to be held on December 15, 2006 if anyone could attend.

The last item of Mr. Bryant was the bid on the Hospital Road realignment. He said that five bidders picked up packages and only one turned it back in. The bid was being evaluated and the City may wait and rebid the project.

Mayor Pro Tem Dusty Slater asked if the bid was just a local ad. Mr. Bryant replied that it was a bidders list that the packages were mailed to. The advertisement was also in the newspaper.

Report from the City Attorney

Attorney John Stell had nothing to report.

New Items Proposed by the Mayor and City Council

Mayor Pro Tem Dusty Slater had nothing to report.

Councilman Richard Massey said the Christmas Parade was a good parade.

Mayor Charles Hardy said a good job was done on the parade.

Councilman Wayne Gholston had nothing to report.

Councilman Donald Wilson had nothing to report.

Councilman Mark Fitzpatrick had nothing to report.

Councilman Bob Sosebee had nothing to report.

Mayor Charles Hardy reminded the council of the meeting scheduled on Friday, 12/15/2006 at 6:30 P.M. at the Commerce Civic Center with the elected officials and the representatives.

Mr. William Stout asked to report an event that the First United Methodist Church and the First Baptist Church did at Thanksgiving. He said he thought it was the best kept secret in the City. The churches combined served over 200 meals to shut ins for the Thanksgiving holiday. Mr. Stout said if more people knew about it the program could grow and serve even more meals.

Mayor Pro Tem Dusty Slater made a motion, seconded by Councilman Richard Massey to adjourn the meeting.

The vote was unanimous.

Charles L. Hardy, Jr., Mayor

Shirley Willis, City Clerk