

AUGUST 8, 2022

SPECIAL CALLED MEETING OF THE BOARD OF CITY COMMISSIONERS OF THE CITY OF ALBANY, GEORGIA
GOVT. CTR. – RM. 100 (Virtual and in-person)

PRESENT Mayor Bo Dorough
Mayor Pro Tem Vilnis Gaines
Commissioners: Jon Howard, Jalen Johnson, Chad Warbington and Demetrius Young
Virtual Attendees: Bob Langstaff, Jr. (was not on the call for the entire meeting)
City Attorney: Nathan Davis

Mayor Dorough called the meeting to order at 2:02 pm, followed by a roll call for attendance.

The Legislative Asst. (Triquenski Hicks) read the call as follows:

August 6, 2022

Mayor and Board of Commissioners
P.O. Box 447
Albany, GA 31702

Dear Mayor and Commissioners:

There will be a special call City Commission meeting on Monday, August 8, 2022, at 2:00 p.m., in room 100 of the Government Center Building located at 222 Pine Ave. The purpose of the meeting is to discuss and/or approve the following:

1. MEAG Tender
2. SPLOST VIII and related matters

Sincerely,

/s/ Chad Warbington, Ward IV
CITY COMMISSIONER

/s/ Notified via email
JON HOWARD, WARD I
CITY COMMISSIONER

Notified via email
JALEN JOHNSON, WARD II
CITY COMMISSIONER

Notified via email
VILNIS GAINES, WARD III
MAYOR PRO TEM

Notified via email
CHAD WARBINGTON, WARD IV
CITY COMMISSIONER

/s/ digital signature
BOB LANGSTAFF, JR., WARD V
CITY COMMISSIONER

Notified via email
DEMETRIUS YOUNG, WARD VI
CITY COMMISSIONER

PUBLIC ADMINISTRATION AND FINANCE MATTERS

MEAG TENDER

Mr. Carter discussed information regarding the request to determine how the City will decide to tender equity in Vogtle Plant 3 & 4, adding that there will be significant cost overruns. Explaining the overruns, the cap reached and the discrepancy in the numbers established by MEAG and Georgia Power, he advised that a decision is required before August 15th with the recommendation to turn over anything exceeding the anticipated cost cap for building Vogtle Plant III/IV to Georgia Power. He stated that in return, Georgia Power will recoup some of the power that was allocated to MEAG cities and explained the other option which is to not tender, with the City remaining responsible for plan cost overruns until the plant is built, adding that the

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way it was explained, it must be a unanimous agreement with all parties, with the City agreeing with JDA and Power South to take the cost and capacity for the first 20 years once the facilities are operational. He reiterated that if all parties do not agree, the agreement in place will remain as is and again noted that the option is to give up having to pay for the cost overruns of Vogtle Plant III/IV in addition to giving some of the capacity for that to Georgia Power at the end of it, because Georgia Power will become responsible for the cost. Otherwise, the City will continue with the current agreement and will be responsible for any cost associated with that. The issue is that no one knows what the cost at this time will be. He advised that several MEAG cities decided to not tender and his recommendation is to not tender as well.

Commissioner Howard expressed concern on voting on something with there being no estimated cost and suggested remaining where we are today.

Mayor Pro Tem Gaines asked if this was discussed at the utility board, with Mr. Carter replying in the affirmative, adding that their decision was to not tender.

Commissioner Langstaff agreed with the City Manager's recommendation.

In reply to Mayor Dorough, Mr. Carter explained that there will not be a resolution brought until the voting meeting at the end of the month; however, he advised that he will present the decision today to MEAG. Additional discussion followed regarding having the resolution signed.

Commissioner Warbington moved to decline the tender and to let MEAG know immediately, seconded by Commissioner Johnson, and following a roll call vote, the motion unanimously carried.

SPLOST VIII DISCUSSION

Mr. Carter commented on the email he just sent, with the County offering the \$3.5 million for CSS, in return for maintaining the current allocation of 64% (City) and 36% (County) with the other option to deny that and to forgo an intergovernmental agreement (IGA) with raising level one projects to \$21.5 million and using the prescribed population split (81/19%) and keep the split as it is today, which is the County's proposal.

Mayor Dorough commented on the July 6 email from the City Manager with SPLOST options and discussed other options since that time between the City and County, adding that there really have been no negotiations, but rather ultimatums. He referenced a meeting that was held with the County Chair, himself, et al whereby it was said that there would be no negotiations and that the split would be 64/36%. He continued to discuss options, including his calculations, other issues, i.e., going to arbitration to look at populations, etc., matters with the County stating that SPLOST VIII must be settled with there being no negotiations on LOST. He recommended taking the 64% to the County to enter into an IGA, which is the same unequitable deal that they have had in past SPLOSTs.

Discussion continued regarding prior numbers, i.e., \$109.8 million SPLOST projection with this being aggressive from the original \$100.0 million projection with Commissioner Howard agreeing that both the City and County have not done due diligent in negotiations. He suggested moving forward with what was proposed.

Commissioner Johnson agreed with Commissioner Howard to move forward with what the City proposed.

Mayor Pro Tem Gaines asked where it goes from here if the County does not accept arbitration, with Mayor Dorough explaining that the law requires arbitration with LOST. The County is saying the City has to take the deal but, LOST has to stay as it is (60-40%).

Commissioner Warbington stated that today is the first day the County has submitted a compromise, with discussion following regarding negotiations and options being presented to the

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County in the past. He discussed the project list which has remained unchanged and commented on the County's option 2, which is to go without an IGA, adding that instead of spending \$2.0 million on the jail, they are now proposing to spend \$9.0 million. He discussed other changes the County proposed, etc., and said he is okay with Option #1, except for the 60/40 LOST proposal and acknowledged the County's willingness in Option #1 to contribute \$3.5 million to the CSS project (sewer).

Commissioner Langstaff noted that attorney Dan Lee (outside council was on the zoom call) has experience regarding SPLOST and LOST negotiations between cities and counties, adding that Mr. Lee advised that he had never seen a percentage split between a city and county being so out of whack with the population percentage split. Mr. Lee agreed and explained the process as noted in the statute (LOST v SPLOST re: population), adding that he has not seen such a disparate number as those being presented. He stated that the law's intent was to spend time negotiating with the level one qualification of projects being changed without any explanation, etc. Commissioner Langstaff stated that instead of the City getting 60% of SPLOST/LOST, it would be closer to 80%, which is the population split, with Mr. Lee stating that ordinarily, discussion would have started at 81% based on population and then differences would apply, with the County explaining their need for extra money from LOST/SPLOST. Commissioner Langstaff asked how other city/counties operate and noted his research of Valdosta's percentage matching almost identically with their population. Mr. Lee explained that the state legislature believes it is based on population, even if the statute does not demand it, citing cities formed in the metro areas in Georgia. Commissioner Langstaff stated that the City Commission represents 81, almost 82%, of the population of the entire county with the goal to keep property and utility rates low, adding that sewer projects, purchase of police cars are expected. He suggested that rate increases could be much less if there is a fair share of SPLOST and LOST, which translates to lower utility and property tax rates. He stated that in his 20 years on the Commission, the matter was never challenged and commented on the control the County is pushing, which includes the City not having a fair share of the monies based on population. He agreed with Commissioners who have spoken to stand up for what is right for the City and citizens, adding that all this points to the need for the City and County to consolidate; the duplication of services is a primary factor.

Commissioner Young stated that he agrees with the rest, adding that in the process, the Commission has not had a chance to deliberate on the issues, i.e., to reason on the justifications, with it being unfortunate that the County Chairman signaled that they were playing hardball. He commented on the County's view, the City having a higher percentage based on population, etc., adding that this is also a County budget matter with there being a short number of days left to send to the Secretary of State to get it on the ballot. The City's decision is based on a rational thought process, while the County's needs resulted in their proposal being based on their financial circumstances, adding that as Commissioner Langstaff stated, maybe consolidation should be looked at; however, he hopes that there is a way to work out a compromise.

Mayor Dorough discussed arbitration and if it is the end result, the amount based on population and revenue the City will not see, adding that there is an obligation to revisit the split in LOST, which is separate from SPLOST. He said he feels the CSS is more important than any of the other projects and noted potential increases in utility bills, with the County being upset with the City. However, they had, and still have, an opportunity to minimize the hardship to their constituents, but they took the stance that it is the City's problem. He noted the City's vs the County's proposal for outside projects/entities, etc., adding that the City has \$15.0 million allocated to recreation, as well as funds for Downtown/Harlem revitalization, etc., with the needs of staff being not being a priority. There is a misunderstanding within the community about who is/is not being reasonable and, the issue of what is fair and equitable in distribution according to what the statute contemplates, the City is not getting at this point.

Mr. Carter stated that based on population, 81% of Dougherty County lives within the corporate limits of Albany and over 96% of the 1% sales taxes is collected inside the City of Albany. The potential property tax increase will result in 81% of those who will pay the cost of raising the County's property taxes and will be paid by residents living inside the city. Referring to service

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delivery, he stated that based on an already negotiated strategy, averaging those number results in the City paying 74% of the service delivery strategy that is currently in place. If an intergovernmental agreement is not reached, the allocation of funds will be based on the population of Dougherty County, meaning a little more than 81% of the split will go to the City, as designed by the law. He discussed the City using numbers that are equitable and reasonable as an adjustment tool.

Mayor Dorough noted that the CVB is funded by the City and suggested that over the next ten years, between \$33.0 – 47,000 million will be collected in SPLOST, with it being unreasonable to expect the City to waive any further LOST negotiations.

Commissioner Howard asked Mr. Lee whether the City should sign an IGA, with Mr. Lee advising that the City should not take the County's proposal regarding SPLOST and tying it to LOST negotiations; they are separate and should be handled separately. He agreed with Mayor Dorough regarding LOST and when arbitration/mediation will come into play, asking why would either party give up on using those methods to work to a resolution. Regarding the deadline, Mr. Lee advised that he spoke with Secretary of State (SOS) and it was confirmed that August 12 is the deadline and proposed an option to move it a week further out. Commissioner Howard agreed to move forward with the City's proposal.

Commissioner Johnson said that he agrees with Commissioner Langstaff's comments and noted other cities/counties which complete the process in a better manner, etc., comments regarding the County being fair and making better decisions for operational services, etc., as it relates to educating citizens, noting that maybe a question on the ballot should be whether the citizens want consolidation.

Mayor Pro Tem Gaines agreed to move forward as discussed.

Commissioner Warbington stated again that the City's project is the same, with the County moving \$16 million in option 2 to the Jail/courthouse annex and judicial building improvements with the City's contributions to the Civil Rights Institute, RiverQuarium, Chehaw, CSS, recreation, etc., and suggested that option 2 is impalpable to constituents by keeping money away from the City based on state law. He recommended the financial numbers of option 1, but not to agree with the 60/40% split, as well as adding a statement that the split comes out to 67/33%, adding that he agrees to put the question on the ballot to see if citizens support consolidation.

Commissioner Langstaff stated that he is glad that someone pointed out that a split of 81% is fair, with the City asking for 70%. Discussion continued on the LOST (60/40%/SPLOST (64/36%) and TSPLOST (67/33%) split with Mr. Lee giving examples, i.e., to jail/courthouse annex, etc., and the split being greater than the 60-40 with SPLOST being for capital improvements which can go for both incorporated and unincorporated areas, with LOST being a roll back of property taxes that would have been spent for 14 enumerated services, i.e., police/fire and on down the list. Commissioner Langstaff commented on various split amounts while working with the County, suggesting that all sales tax be split 67/33%.

Commissioner Young reiterated that he hopes an agreement is reached soon, which is fair and equitable for both boards.

Mayor Dorough noted all comments from today with the City hiring attorney Dan Lee and the County not making many concessions, adding that the CSS is a large project with the City committing a lion's share to other projects/outside entities. He recommended making the offers to the County and discussed outcomes. Additional discussion included what happens if there is no IGA, with Mr. Lee stating that the next SPLOST will be on a general election. Mayor Dorough recommended going back to the County to accept continuing the 64-36% split or accept option 1 without any stipulation regarding LOST.

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Commissioner Warbington disagreed and suggested option 1, accept their 36-64% split, accept their \$3.5 million to the sewer with a statement to equal 33-67%, decline the LOST and ask that a non-binding referendum be added regarding City/County consolidation and he so moved, seconded by Commissioner Johnson.

Mayor Dorough made a substitute motion to give the County two options – continuation of the 64-36% split and present our schedule with the other option of the 64-36% split with the County contributing \$3.5 million to the CSS. Commissioner Warbington asked that it include the non-binding referendum question seeking consolidation and declining the LOST. Mayor Dorough stated that he has no problem with that, seconded by Commissioner Young and following a roll call vote, the motion failed 3-4 with Mayor Dorough and Commissioners Howard and Young voting yes.

Commissioner Langstaff asked for Commissioner Warbington to restate his motion, which is agreeing to the County's Option 1 (36-64% split) contributing \$3.5 million for CSS, include a statement that it equals a 33-67%, declining the LOST commitment and adding consolidation to the ballot for consideration.

Commissioner Young disagreed with the consolidation issue and explained that due to the contentious negotiations regarding SPLOST/LOST, it would be best to hold off on the consolidation referendum at this time; citizens are suspicious and do not support consolidation and suggested it will serve to make issues murkier.

Mayor Dorough agreed with Commissioner Young to leave out the consolidation portion.

Commissioner Johnson countered that there is no downfall since it is a non-binding question to the citizens and disagreed with Commissioner Young, stating that we should move forward on the question.

Mr. Carter asked Commissioner Warbington to add to his motion that the \$3.5 million is payable in first year of receipts; Commissioner Warbington agreed.

Mr. Lee updated his comments and stated that the SOS will give Albany/Dougherty County to August 19 to provide the ballot.

Mayor Dorough asked Commissioner Warbington to repeat his motion; Commissioner Warbington clarified that the motion is to accept the County's option 1, a 36-64% split in addition to a \$3.5 million sewer contribution that is in the first-year receipts and a statement advising that this equals an approximate 33-67% split; the City will decline the 40-60% LOST requirement they requested and ask for a non-binding referendum question be added to the ballot re: consolidation. Hearing no additional comments, the motion carried 5-2 with Commissioners Howard and Young voting no. Mayor Dorough and Mayor Pro Tem Gaines both stated they are voting yes; however, they asked that the consolidation portion be left out.

In reply to Commissioner Howard, Mayor Dorough confirmed that he will let the County know that the SOS has granted a deadline of 8/19 to submit the info.

Commissioner Langstaff asked Mr. Lee about approving the SPLOST list due to the agreement with the County and not knowing estimated amounts and if an alternative list should be adopted. Mr. Lee advised that a resolution should be adopted and sent to the SOS. In reply to Commissioner Langstaff, Mr. Lee agreed that the City will send anticipated cost regarding the projects with this being pursuant to the failure of having an IGA. Commissioner Langstaff said that a special call meeting will be required to approve the resolution/list.

Commissioner Young mentioned the Board of Elections meeting to approve the ballot to send to the SOS. Mr. Lee explained that the County Commission sets the ballot i.e., the language and question to go on the ballot, with the question being whether to include the projects. There is no way the Elections Board could do it without a resolution from the City/County, especially if

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there is an Intergovernmental Agreement, adding that it would be disingenuous if the County had already delivered to them [SOS] a ballot question without giving the City a chance to respond to it.

There being no further business, the meeting adjourned at 3:39 p.m.

MAYOR

ATTEST:

CITY CLERK