

JUNE 28, 2017

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF  
ALBANY, GEORGIA  
GOVT. CENTER – RM 100

PRESENT: Mayor Dorothy Hubbard  
Mayor Pro Tem Roger Marietta  
City Commissioners: Jon Howard, Bobby Coleman, BJ Fletcher, Bob Langstaff,  
Jr., and Tommie Postell  
City Manager: Sharon D. Subadan  
City Attorney: C. Nathan Davis

Mayor Hubbard called the meeting to order at 6:55 p.m., and instructed the audience of the policy for addressing the Commission by filling out a Speaker's Comment form to speak about an issue on the agenda or Speaker's Appearance form.

The Pledge of Allegiance followed a moment of silence.

Commissioner Howard moved to approve the minutes of the previous meeting, seconded by Commissioner Fletcher; the motion unanimously carried.

#### RECOGNITIONS

Mayor Hubbard recognized Ms. Sherrilyn Scott to give an update of the 8<sup>th</sup> Avenue Baseball Park 12U All-Star Team.

Ms. Scott stated that the team is coached and managed by Leonard Williams, and coaches Toby Wilson and Chris Robinson; the players are ages 12-13. Placing 2<sup>nd</sup> at the Dizzy Dean State Tournament qualified them for the World Series, which will be held in Southhaven, Mississippi in July; she asked the Commission to give their financial support and blessings. Mayor Hubbard wished the team the best of luck.

Mayor Hubbard opened the public hearing for the following matters.

#### PUBLIC HEARINGS

1. Zoning Case #17-021 - Pankajbhai & Jyotsnaben Patel/Owners; George M. Dallas Hunt/Applicant; request to zone property located at 2402 Whispering Pines Circle from R-1 to C-2. **(conditional)**

Using a power point presentation (copy on file), Paul Forgey, Planning Director, advised that the request is for a fast food with a drive thru, adding that the rezoning was denied in 2013. He showed maps of the area (aerial view, surrounding zoning, etc.) and discussed the zoning history, planning considerations and traffic generations, advising that the Planning Commission recommends conditional approval as follows: **1) Due to possible high traffic volume, noise, and/or late hours of operation, the following uses will not be permitted at this location: bar, night club, event centers, convenience stores, and motor vehicle related services; 2) No access to the subject property is allowed from Whispering Pines Circle. Driveway placement on Whispering Pines Road will be determined by the Director of Planning and the City Traffic Engineering Department; 3) Applicant will engage services by acoustical (sound) professionals to design a sound wall that mitigates sound from the proposed development. The wall will extend along Whispering Pines Circle and Whispering Pines Road to a point determined by the Planning Director that will offer protection to 2500 Whispering Pines Road. The reasonable discretion of the Director of Planning and Development Services will control; 4) A landscape buffer shall be planted and maintained outside of the wall on private property. The composition of the landscape buffer will be determined by the Planning Director and the City Arborist; 5) Applicant will engage services of lighting professionals to develop a lighting plan that will ameliorate any adverse effect of lighting on residential lots to the west. The type of lighting used should reflect the results of such study. The reasonable discretion of the Director of Planning and Development Services will control; 6) Declaration and Protective Covenants and Restrictions to be recorded on deed records so as to prevent erection on said property of structures of improper materials, to encourage the erection of attractive improvements at the property and to prevent haphazard and inharmonious improvements, all so as to ameliorate the effects of the zoning change.**

C. B. Fincher (2403 Whispering Pines Circle) spoke in opposition and stated that he was at the last public hearing when this rezoning was denied a year ago in which he provided the

JUNE 28, 2017

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF  
ALBANY, GEORGIA  
GOVT. CENTER – RM 100

Commission with a notebook with photos showing the reason for his opposition. He gave a brief history of Dawson Heights; discussed “real estate speculators”/risky business ventures, especially those only concerned with making profits; and C-2 being inappropriate for this location, etc.

In reply to Mayor Hubbard regarding the buffer for the Family Dollar store, and who monitors it, Mr. Forgey explained that the City has no active monitoring; the owner/tenant/neighbors monitor the area and call Code Enforcement to address issues/complaints. In reply to Mayor Hubbard, Mr. Forgey stated that Captain D’s is the proposed fast food restaurant.

Mayor Hubbard announced that 14 had signed up to speak and asked that only one speak in favor of and one in opposition to the application. She also asked those who oppose the application to stand (13 stood).

Joe Dent, Attorney with Watson/Spence law office, stated that he is representing the applicant, who is on vacation and could not attend the meeting; he distributed information (copy on file), which suggest that the current zoning is unconstitutional. He commented on the Comp Plan, zoning restrictions (covenants) and advised that the applicant has made a 20 year commitment to Captain D’s and if this restaurant fails, it will scar his reputation. He discussed parking in the area, referenced the conceptual design and showed photos of a recently built Captain D’s that this restaurant will look like, which will have an acoustical wall to diminish sound and not a wooden fence like the one at Family Dollar. He briefly discussed conditions, which provide a lot of control over development of this property, unlike the Family Dollar on Slappey. Referring to the congested traffic already on Dawson Road, he said that the Captain D’s will only draw from the traffic already in that area.

In response to Commissioner Postell, Mr. Dent said that he represents the applicant, George Dallas Hunt, who has the contract to purchase from the existing owner, which is conditioned on the zoning being approved. Commissioner Postell asked if this has been brought before the Commission before. Mr. Dent explained that a year ago, the current property owner desired to build a convenience store/gas station, but was not amendable to the conditions being placed on the property, with that application being denied. Commissioner Postell mentioned the congested traffic with Mr. Dent explaining that original design for the building to be on the corner and because of traffic, the design was revised with the building being moved to the interior portion of the property, and ingress/egress He stated that future development will not require additional ingress/egress onto Dawson Road, but will connect directly into the Captain D’s. Commissioner Postell asked if a traffic survey was conducted; Mr. Forgey replied that the standard study of traffic counts on an existing thoroughfare was conducted to determine capacity, current traffic count and how much traffic the proposed use would generate. He reported that Dawson Road has sufficient capacity to absorb any traffic that would be generated and would not, by itself, generate a lot of new traffic, however, a traffic study was not conducted. Commissioner Postell suggested that the traffic count needs to be revisited due to the high volume of traffic already in the area.

Mayor Pro Tem Marietta questioned the differences in the ordinance from last week with Mr. Dent explaining that it is more inclusive of what is restricted, i.e., no alcohol sales, novelty shop, motor sales, etc., being allowed. He advised that Mr. Hunt is purchasing the entire 1.8 acres of property from Mr. Patel. To make the covenants applicable to future owners, the Patel’s, as current owners, had to execute the covenants.

William Dunwoody, 2413 Whispering Pines Circle, spoke in opposition of the application and questioned whether the new traffic count includes the new Taco Bell that recently opened on Dawson Road.

Toni Pickel, 2701 Whispering Pines Circle, also spoke in opposition and asked to keep the neighborhood safe and quiet. The rezoning will increase traffic in the area; she suggested that the applicant look at another area and not infringe on the residential area.

JUNE 28, 2017

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF  
ALBANY, GEORGIA  
GOVT. CENTER – RM 100

Cindy Neal, 2800 Pine Manor Lane, spoke in opposition and also asked that the traffic count be revisited, along with enforcement of the noise ordinance. She mentioned wetlands that abut the neighborhood and asked that it not be disturbed.

Mr. Fincher spoke again and stated that the Patel's own the property and if it is rezoned it will be sold with the covenants being un-enforceable.

Mr. Dent rebutted comments adding that the covenants can be enforced by the City and that Mr. Hunt is purchasing the entire track from the Patel's . He added that the Del Taco was a concept of the Patel's; however, the covenants they executed prohibit a drive-thru.

There was no one else desiring to speak on this matter.

2. Zoning Case #17-022 - Stephen J. Silverman, Florida Eight/Owners; Performance Leasing Company, LLC/Applicant; request to rezone property located at 502 Cordele Road from R-2 (Single-Family Residential District) to C-3 (Commercial District).

Using a power point presentation (copy on file), Mr. Forgey reported that the request to rezone is to develop a Peterbilt Truck Sale Dealership. He showed maps of the property and surrounding zoning and discussed the zoning history, surrounding land use and advised that the Planning Commission recommends approval.

Mary Linda Cotton, Realtor, said that she signed up to answer any questions. There was no one desiring to speak on this matter.

3. Special Approval Case #17-023 - Amerco Real Estate Company/Owner/Applicant; request Special Approval for property located at 806-808 W. Oglethorpe Blvd; to convert an existing building for a self-storage facility in the C-3 District.

Using a PowerPoint presentation, (copy on file) Mr. Forgey reviewed the application for Special Approval to convert the building to U-Haul Self Storage Units. He showed the aerial and surrounding zoning maps, discussed surrounding land use and traffic considerations, advising that the Planning Commission recommends approval.

Hearing no one desiring to speak on this matter, Mayor Hubbard closed the public hearing portion of the meeting.

#### REPORT OF COMMITTEE OF THE WHOLE

Commissioner Postell moved to approve the following Alcohol License Application, seconded by Commissioner Coleman; the motion carried 6-1 with Commissioner Howard voting no.

1. Fatdaddy's; 1009 Clark Avenue; D. McIntyre/ Agent; Liquor, Beer and Wine Consumption

Commissioner Postell moved to approve the following Alcohol License – Transfer of Ownership Applications, seconded by Commissioner Coleman, the motion carried 6-1 with Commissioner Howard voting no.

1. Little Whisky River; 2900 Sylvester Road; T. Carman/Agent; Liquor, Beer and Wine Consumption; Transfer of Ownership from K. Gillett;
2. Twinkal & Parth LLC, d/b/a R & M Grocery; R. Patel/Agent; 707 W. Highland Avenue; Beer Package and Wine Package; Transfer of Ownership from S. Mehulkumar

JUNE 28, 2017

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF  
ALBANY, GEORGIA  
GOVT. CENTER – RM 100

Commissioner Postell moved to approve the following Special Approval application, seconded by Mayor Pro Tem Marietta; the motion carried 6-1 with Commissioner Howard voting no.

1. Special Approval Case #17-023 - Amerco Real Estate Company/Owner/Applicant; request Special Approval for property located at 806-808 W. Oglethorpe Blvd; to convert an existing building for a self-storage facility in the C-3 District.

Commissioner Postell moved to approve the following purchase, seconded by Mayor Pro Tem Marietta; the motion unanimously carried.

2. Refuse Trucks - New Way, Scranton, IA  
Total expenditure \$631,844.54

Mayor Pro Tem Marietta moved to approve the following purchase, seconded by Commissioner Postell; the motion unanimously carried.

3. Directional Drill - Boring Machine; Ditch Witch, Albany, GA  
Total expenditure \$196,477.17

Commissioner Fletcher moved to approve the following purchase, seconded by Mayor Pro Tem Marietta; the motion unanimously carried.

4. Street Sweepers - Tymco, Inc.; Waco, TX  
Total expenditure \$480,030.00

Commissioner Fletcher moved to approve the following purchase, seconded by Commissioner Coleman, the motion unanimously carried.

5. Municipal Golf Course Club House Renovations W J Kirksey Const.; Albany, GA  
Total expenditure \$142,132.83

APPOINTMENTS

1. Appointments to Community Development Council for one-year term expiring June, 2018.

Mayor Pro Tem Marietta moved to reappoint the following and continue advertising vacancies, seconded by Commissioner Coleman, the motion unanimously carried: Michael Fowler (Business), Tracey Taylor (Business), Gary Sanders (Business), Wylene Jones (Citizen), Delinda Bryant (E. Albany), Eloise Moore (Emily Henderson), Pinky Modeste (Senior Citizen) and Timothy Sweet-Holp (Social Services).

2. One appointment to Albany Housing Authority for five-year term expiring June, 2022

Mayor Hubbard advised that she is reappointing Lou Johnson.

ORDINANCES

Commissioner Howard introduced

AN ORDINANCE NO. 17-107

Amending Article II of Chapter 2 of the Code of Ordinances of the City of Albany so that there will only be one meeting of the Board of Commissioners of the City of Albany, Georgia in August, August 22, 2017

JUNE 28, 2017

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF  
ALBANY, GEORGIA  
GOVT. CENTER – RM 100

Commissioner Howard then offered the ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption, seconded by Commissioner Fletcher; the motion unanimously carried.

Commissioner Langstaff introduced

AN ORDINANCE NO.

Amending the Zoning Ordinance and Map of the City of Albany to change the status of property located at 2402 Whispering Pines Circle from R-1 to C-2 conditional

Commissioner Langstaff then offered the revised ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption, seconded by Commissioner Postell. Commissioner Langstaff referenced the revised ordinance distributed by Mr. Davis and stated that this is a tough decision because of the desire of various citizens that it remain residential; however, most realize that is not going to happen, it has to become commercial. He briefly discussed zoning issues, which can be reversed by a judge and the Commission ordered to rezone it, which is one possibility. Another one is that the Commission deny the request, the decision is not contested and the denial stays in effect. Some people feel that office space is the ideal use for this property, but there is a glut of office space with a lot of vacancies. The applicant is entitled to the highest and best use of his property and he said he feels that the proposal is the best that can be had and with the conditions/restrictions/covenants in place, residents will be protected. He reviewed prohibited uses and additional conditions, adding that the restrictive covenants will be filed on the deed record, something he has never seen in his 16 years as a Commissioner. He reiterated that he feels that it will become commercial eventually and this proposal protects the neighborhood. In response to Mayor Hubbard, he agreed that this is in his ward and the hours of operation do not change for the weekend (7 am. – 12 am.)

Mayor Pro Tem Marietta mentioned Commissioner Postell's recommendation for a traffic count due to the Taco Bell and made a substitute motion to table until the next meeting for the purpose of a new traffic count based on Taco Bell traffic, seconded by Commissioner Postell. Mr. Davis stated that a date certain must be stated in a motion to table. A brief discussion followed regarding meeting dates and, Engineering Director Bruce Maples explaining that a traffic count and traffic study are not the same. A traffic count could be determined by the July meeting, but a traffic study could not be completed by then.

Mayor Hubbard called the question which carried 4-3 with Mayor Hubbard and Commissioners Fletcher and Langstaff voting no. Ms. Subadan clarified that a traffic count will be conducted and brought back for the July 25<sup>th</sup> meeting.

Commissioner Langstaff introduced

AN ORDINANCE NO. 17-108

Amending the Zoning Ordinance and Map of the City of Albany to change the status of property located at 502 Cordele Road from R-2 to C-3

Commissioner Langstaff then offered the ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption, seconded by Commissioner Fletcher.

Mayor Pro Tem voiced support for the rezoning request, adding that it is consistent with plans of the Economic Development Commission in tying in to the inland port in Cordele.

Hearing no further comments, the motion unanimously carried.

Commissioner Langstaff introduced

JUNE 28, 2017

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF  
ALBANY, GEORGIA  
GOVT. CENTER – RM 100

AN ORDINANCE NO. 17-109

Adopting the Budget and Appropriations for the period of July 1, 2017 through June 30, 2018, Commissioner Langstaff then offered the ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption, seconded by Commissioner Fletcher; the motion carried 5-2 with Commissioners Howard and Coleman voting no.

Ms. Subadan questioned the issue of the vote not being unanimous consent to dispense with the second reading. After a brief discussion, Commissioner Langstaff adjusted his motion to unanimously waive the second reading, which unanimously carried.

RESOLUTIONS

Commissioner Langstaff moved to adopt the following resolution, seconded by Mayor Pro Tem Marietta; which unanimously carried.

A RESOLUTION NO. 17-R138

Authorizing a Memorandum of Understanding between the Albany Police Department and Albany State University regarding Law Enforcement Services

Commissioner Langstaff moved to adopt the following resolution, seconded by Commissioner Howard; the motion unanimously carried.

A RESOLUTION NO. 17-R139

Approving Easement Agreement from BCD Properties of Georgia, LLC re: Forest Park Subdivision

Commissioner Langstaff moved to adopt the following resolution, seconded by Commissioner Fletcher; the motion unanimously carried.

A RESOLUTION NO. 17-R140

Authorizing the filing of an application with the Department of Transportation, United States of America, and Georgia Department of Transportation, for a grant under Title 49, U.S.C. Section 5303

Mayor Pro Tem Marietta moved to adopt the following resolution, seconded by Commissioner Postell; the motion unanimously carried.

A RESOLUTION NO. 17-R141

Accepting the recommendation from the Community Development Council to fund Public Service Grants through Community Development Block Grant funds.

There being no further business, the meeting adjourned at 8:21 p.m.

---

MAYOR

ATTEST

---

CITY CLERK