

NOVEMBER 22, 2016  
COMMITTEE OF THE WHOLE  
GOVT. CTR. – RM. 100

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

Mayor Hubbard called the meeting to order at 6:00 p.m. and advised that citizens desiring to address the Commission regarding items listed on this agenda must fill out the Citizen Comment form and submit it to the City Clerk.

APPOINTMENT

1. Two appointments – one City appointment and one Dougherty County Circuit Bar Association appointment to the Board of Ethics for two-year term ending October, 2018

Mayor Hubbard stated that the two members whose terms are expiring requested to be reappointed; there was no further discussion regarding this item.

TRAVEL

Commissioner Howard moved to approve the following, seconded by Commissioner Marietta the motion unanimously carried.

1. City Manager S. Subadan – 2016 CARE Award Ceremony; Atlanta, GA; Oct. 13-14, 2016 - \$501.02

ADICA and DDA RESTRUCTURING

Downtown Manager Latoya Cutts introduced Daniel McRae, attorney with Seyfarth Shaw, who was asked to conduct an audit and analysis of the legal structure of both Boards. His charge was to clarify their roles, responsibilities and powers, as well as ascertain the City's compliance with current Georgia law. She reminded the Commission that the findings and recommendations were submitted in July of this year, and that a resolution was adopted to accept the recommendations. She said that additional action must be taken by the Commission and advised that Mr. McRae will present those items tonight.

Mr. McRae's presentation showed the present structure of ADICA, its governmental mission (county-wide redevelopment through public/private projects) and leadership. He stated that the six members who are appointed by the City Commission, appoint a seventh member. The recommendation is to ask the Local Delegation to introduce a Bill, requesting the General Assembly, to amend the original ADICA legislation. If the local legislation becomes law, ADICA's governmental mission will be to provide capital projects and services with public funds to the City, County and other public bodies that benefit citizens; it becomes a Public Facilities

Authority. He added that the current legislation is murky, which will be corrected i.e. the seventh member's term being two years. Once the process is complete, the City will have an amended local Act, an entity with the purpose to provide projects, services, benefits as well as clarification, especially terms of the seventh member. Commissioner Postell asked when the Commission approves adding a seventh member. Mr. McRae explained that membership is already controlled by legislation, which states that the Commission appoints six members, who caucus and appoint a seventh member – that will not change. In reply to Commissioner Postell, Mr. McRae replied that the General Assembly decided the two-year terms. Referring to the Downtown Development Authority (DDA), he explained that it is a statutory body that follows the state-wide model, which is to redevelop and revitalize the central business district. It, too, has seven members, but they are all appointed by the Commission and serve four-year terms. He stated that no changes will be made to that Board, because to make a change, it would have to be state-wide; every city would have to make the same change. He stated that if the Commission waits until April, 2017, there will be five open seats for four-year terms, with two appointments being made mid-stream, which ends April, 2019; this will put the Commission in compliance with State law. Subsequent to this, all appointments will be for four years.

Commissioner Marietta stated that in April, the ADICA Board will completely vacate and asked if the Commission will have to appoint new people to that Board. Mr. McRae advised that changes in appointments are primarily for ADICA; the statute will continue with two-year terms. Commissioner Marietta asked if he recommends opening up one seat for a County representative on ADICA. Mr. McRae explained that while ADICA has county-wide jurisdiction, the law states that appointments are made by the City. He explained that it would take a change in law to reserve a seat for a county appointment. He added that it is possible, but it is not mandatory; there are no residency requirements. A brief discussion ensued regarding 'hold-over directors', which are members whose terms have expired, but the appointing body keeps them on the board during transition. While there are no requirements to serve on ADICA, there are several that must be met by DDA members.

In response to Commissioner Postell, Mr. McRae explained that per the ordinance adopted by the City, members serving on ADICA also serve on the DDA, this is not prohibited by law and in the draft Bill there is no mention that each Board must have different members. He explained that DDA's are primarily designed to assist with private projects such as helping someone set up/finance a business or downtown programs. He mentioned Georgia Supreme Court cases which states that a DDA should not do public projects (public buildings, sewer services, etc.); Georgia's constitution make public/private partnerships difficult. This makes ADICA's role even more critical for capital projects because the DDA cannot take on those type projects. In response to Commissioner Postell, Mr. McRae stated that State law requires seven members on a DDA. He explained that the City Commission has the latitude to make a policy that the same members serve on both Boards. However, he cautioned that there are eligibility requirements to serve on the DDA, which he listed, adding that members on the ADICA Board may not meet the qualifications, which would prohibit them being appointed to the DDA.

Commissioner Langstaff referred to consecutive terms, asking if there is a rule that limits serving to three consecutive terms. Mr. McRae replied that there is nothing in the DDA law or ADICA

statute about term limits; the ordinance sets term limits, which created conflict between it and State law. He explained that the City could not bind future councils by trying to make term limits mandatory, but could make it a policy to observe them. Commissioner Howard noted that the terms of three members expired in January, 2016 and asked if they are still on the Board. Ms. Cutts replied in the affirmative, explaining that they were held over in order to work through the process of separating the Boards and to bring back recommendations. Mr. McRae interjected that the intent was to get back in compliance with State law without extreme disturbance on the Boards and the best way was to let all members terms expire and appoint all members in the newly restructured Boards at the same time. Commissioner Howard asked if the City must get the blessings of the local Legislative Delegation in order for this to happen. Mr. McRae replied in the affirmative, adding that if the Commission wanted to introduce this as general legislation, all members of the General Assembly would vote on the issue.

In response to Commissioner Postell, Mr. McRae explained that all seven members of the DDA must be appointed by the Commission, whereas ADICA has a member who is appointed by the other six members. Commissioner Postell asked which one controlled the other; Ms. Subadan explained that they are two separate entities and one is not subservient to the other. The function of the DDA is specific to downtown redevelopment. Meanwhile, ADICA has broader responsibilities and is not limited to downtown issues. She added that both Boards are responsible for the funding that comes through the City for projects.

In response to Commissioner Langstaff, Mr. McRae said that he did consider recommending a name change for ADICA, since it extends beyond the inner-city, however, everyone knows it as ADICA and the decision was to leave it as is. In response to Mayor Hubbard, Mr. McRae stated the missions and skill sets of both entities are different, resulting in the need for two separate Boards. In response to Commissioner Postell, Ms. Subadan explained the process of the Bill sponsoring this legislation to be sent to the local Legislative Delegation for approval and ultimately voted on the by General Assembly.

## **PUBLIC SAFETY MATTERS**

### ANNUAL ALCOHOL LICENSE BLANKET RENEWALS

Commissioner Howard referred to page 63, paragraph ‘A’ which reported ‘no major concerns stemming from the alcohol establishments’ and not being a drain of police resources for APD, ADDU, and DCP. He asked for confirmation that someone lost their life following an incident at Applejax this year. Marshal Walter Norman replied in the affirmative; however, while there have been incidences, they have not been to the level that would result in revocation. He explained that recommendations for revocation are not brought forth based on an isolated incidence and recalled a revocation that was overturned by the court a few years back. Tabs are kept on calls to establishments and he, along with APD, ADDU and DCP, review the incidences throughout the year to look for trends; if any are found, it is brought to the Commission as they transpire and not wait until the end of the year. He agreed that there was a felonious incident that transpired, but

from his perspective, it was an isolated incident and did not meet criteria for revocation. Commissioner Howard mentioned the most recent time the City was called to court because of a murder at a local night club. He suggested that someone in Marshal Norman's office alert the Commission when situations arise, he does not want to read about it in the local newspaper first and then hear about it later. He mentioned recent events, especially alcohol being sold to minors. Marshal Norman advised that establishments charged four times with selling to minors face automatic revocation. Commissioner Howard stated that it may be necessary to forego blanket renewals. Mayor Hubbard countered that the Marshal's office constantly monitors these establishments and ensure that they comply with City codes. Marshal Norman agreed, adding that for the past three years establishments have been monitored monthly in an attempt to prevent a reoccurrence of past incidences. In response to Mayor Hubbard, he agreed that underage sales result in automatic revocation, but they, too, will be brought back to the Commission to make them aware of what has transpired. Commissioner Postell mentioned monitoring the establishments might be affected by transfer of ownership/business moving/renamed; he asked Marshal Norman about the number of flags an establishment would have for incidences as a warning. Marshal Norman explained that three establishments are currently under review for incidents, but they have not risen to the point to have their license revoked; if or when they do, it will be brought to the Commission. Commissioner Postell suggested that clubs change ownership when they get on the radar. Mayor Hubbard clarified that there is a transfer process; Marshal Norman agreed and explained that if one tries to transfer an establishment in which the level of incidences became a problem, it is addressed through his office. Commissioner Marietta asked if local law agencies coordinates with his office if a DUI is issued as a result of over-serving by an establishment. Marshal Norman replied in the negative, explaining that each agency handles it within their own jurisdiction. Training is given to those receiving an alcohol beverage handler's card to help them avoid serving someone who is already intoxicated. Commissioner Marietta suggested that DUI's be monitored to ascertain a correlation; Marshal Norman agreed to look into that.

## **PUBLIC WORKS MATTER**

### EASEMENTS/RIGHT-OF-WAYS

Robert Griffin, Asst, Director, of Engineering stated that the Commission is being asked to accept the right-of-way for Mike's County Store, as well as related storm sewer easement. He briefly reviewed information (copy on file) and reported that staff recommends acceptance of the Country Store Right-of-Way and storm sewer easements.

There was no discussion of this matter.

## **PUBLIC FUNCTION MATTERS**

### SOLAR ENERGY SYSTEMS ZONING ORD. TEXT AMENDMENT

Paul Forgey, Planning Director, advised that there will be a public hearing at the regular business meeting and asked if the Commission wanted to hold off on the PowerPoint presentation until then.

Mayor Pro Tem Fletcher commended Mr. Forgey and stated that the ordinance protects homeowner, business owners, farmers, etc. Commissioner Postell mentioned solar panels attached to roofs; during inclement weather, homes will be without heat. In response to Commissioner Marietta, Mr. Forgey stated that the primary development will be for electrical generation, but heating water is another, less common use, of solar power. Commissioner Marietta mentioned a fee and local utilities having to accept the excess power back into their systems. Mr. Forgey explained that there would not be a fee for on-site use; however, there would be a building permit fee, but no fee to review it. Special Approval would be required for power generation for off-site use, which has a \$400 application fee. Regarding utility companies, he stated that unless it is not linked to the power-grid, it would require permission from the utility provider regarding excess power. In response to Mayor Hubbard, Mr. Forgey said that power generation (i.e. solar farm) would have to go through the application process, but a resident adding solar panels to their home for use on their property would only be required to come Planning and apply for a permit. Mayor Hubbard said that since the presentation must be made at the public hearing, she asked that questions/comments be held until the regular business meeting.

## **PUBLIC ADMINISTRATION AND FINANCE MATTERS**

### PURCHASE(S)

1. Eccentric Valve – Consolidated Pipe-Total exp. \$42,220.00

Central Services Director Yvette Fields discussed the purchase, which is for the Waste Water Treatment Plant.

2. Trail Grant

Mr. Forgey discussed information as noted (copy on file and advised that the request is for authorization to submit a grant application to the Georgia Department of Natural Resources for a Recreational Trail grant program, which would be for part of the Trails to Rails construction going from Monroe Avenue in Albany to Sasser in Terrell County. Using PowerPoint, he pointed out the location of the trail and areas linked by the trail, adding that the total cost for this portion of the project is \$500,000, with the grant paying up to \$100,000 leaving the City with a \$400 match/contribution toward the project. In response to Commissioner Postell, Assistant City Manager Phil Roberson explained that the Commission approved the purchase of the trail March, 2015; he briefly discussed the City agreeing to surface the trail in exchange for 13.26 miles of utility easement. Since the City will have to have an outlay of cash to do the surfacing, it was decided to apply for the grant, which will offset 20% of the cash the City needs. Ms. Subadan

explained the difference between MGAG and MEAG and the decision to use proceeds from MGAG to pave the trail. The Commission is being asked to authorize submission of a State grant.

Commissioner Marietta stated that when being briefed, the scope of the project was \$1.5 million with the trail being paved with crushed asphalt; this is \$500,000 for one-tenth of that. He asked if the entire 13 miles will be paved with regular asphalt. Mr. Roberson explained that crushed asphalt was originally looked at, but they would like to make this a total project and see how bids come back in for the total project.

## **BOARD REQUESTED REPORTS**

Mayor Hubbard stated that the reports were included in Commission packages.

## **OTHER BUSINESS**

Mayor Pro Tem Fletcher mentioned a recent event at a local establishment in which complaints were called in because the music was too loud; the party was ordered to be shut down around 10:30, even though the noise ordinance sets a curfew of 11:00 P.M. She said she has received numerous calls from business owners about this and suggested that because the City intends to have entertainment downtown and be more business-friendly, 11:00 is rather early on a weekend. She said she would like to have the City Manager look into changing the time.

Mayor Hubbard announced that the Legislative Delegation and Hometown Connection meeting are scheduled for December 12<sup>th</sup>.

Commissioner Howard asked that Gang Task Force come before the Commission with a detailed report.

Ms. Subadan announced that the Christmas parade and tree lighting are scheduled for December 3; the lighting begins at 5:00 p.m. followed by the parade at 6:00.

There being no further business, the meeting adjourned at 7:22 pm.

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SISSY KELLY  
ASST. CITY CLERK