

JANUARY 7, 2014
COMMITTEE OF THE WHOLE

PRESENT Mayor Dorothy Hubbard
Mayor Pro Tem Tommie Postell
City Commissioners: Jon Howard, Ivey Hines, Roger Marietta and Bob
Langstaff, Jr.
City Manager: JL Taylor
City Attorney: CN Davis

Mayor Hubbard called the meeting to order at 8:30 a.m.

2014 ANNUAL APPOINTMENTS

Discussion followed on whether to discuss appointments today. Mayor Hubbard asked if anyone had questions and asked the Clerk the order of the agenda for the organizational meeting. The Clerk advised that appointments are made after the swearing in.

Mayor Pro Tem Postell questioned those who applied to WG&L Commission. Mayor Hubbard suggested reading through the resumes and to call the person if there are questions.

PUBLIC ADMINISTRATION AND FINANCE MATTERS

CURRENT BID:

Yvette Fields, Central Services Deputy Director, discussed information (copy on file) regarding the following:

1. Construction Contractor for Albany Transit facility; LRA Constructors, Inc., Albany, GA
Total estimated expenditure \$101,485.00

Commissioner Howard moved to approve for discussion, seconded by Commissioner Hines.

Discussion followed with Mayor Pro Tem Postell questioning the bid that was selected with Ms. Fields and Mr. Taylor listing GDOT requirements, i.e., GDOT certification. Mayor Pro Tem Postell questioned the larger amount by LRA. Mr. Taylor replied this is a bid range, not an accurate number and there are variables to which he does not have access. Ms. Fields stated that only two bids were received, which does not provide a good range for comparison. Mr. Taylor explained that federal dollars are involved. In reply to Mayor Pro Tem Postell, Ms. Fields stated that she will ask the question to see if she can ascertain the answer, however, she explained that there are wide ranges of bids. Mr. Taylor interjected that we do not know how bidders interpret requirements, how they propose to deliver the service, etc. In reply to Mayor Pro Tem Postell, Mr. Taylor stated that there are problems at the site, including mold.

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Commissioner Howard asked if contractors knew they had to be GDOT certified. Ms. Fields replied in the affirmative. Mayor Hubbard stated that she shares Mayor Pro Tem Postell's concerns and asked from where the City's 10% will come. David Hamilton, Transit Director, stated that it comes from capital.

Commissioner Hines questioned DBE certification, with Ms. Fields explaining that it means the contractor has met requirements/qualifications to be DBE certification. The contractor was not a GDOT certified contractor prior to submitting his bid. Commissioner Hines questioned 'good faith effort' to reach DBE percentage. Ms. Fields stated that GDOT reviewed the information, including advertising for DBE contractors to participate, etc., and [GDOT] made the determination that it was acceptable. Mr. Taylor added that progress was made toward meeting the goal. Discussion followed on the set goal, with Commissioner Hines asking if this was acceptable to the City. Mr. Taylor stated that we do not have a DBE goal; we reach out to local businesses and this is done because the City no longer meets that [DBE goal] requirement. Commissioner Hines commented on not reaching out to small businesses as they are the driving force of the economy.

Commissioner Howard questioned local preference bids as it pertains to federal funds and asked Mr. Taylor for an agenda item to discuss having a minority procurement office, which will assist with having input/control of contracts pertaining to non-federal contracts.

Discussion followed with Mayor Hubbard asking if the City had a DBE goal would it have affected the contract. Mr. Taylor and Mr. Davis stated that pertaining to federal funds; their guidelines have to be met.

Commissioner Hines questioned the DBE goal and requirements of federal funds/complying with federal/state law. Mr. Taylor advised that the City can question the federal government, adding that he does not know whether or not the City will prevail. Commissioner Hines stated that he cannot understand the federal government not allowing a governmental entity the ability to facilitate on behalf of local/small businesses when competing for bids.

Mayor Pro Tem Postell asked how many of the 19 which were solicited were GDOT certified. Ms. Fields stated she will provide this information. Mr. Taylor stated that the City does not know all who are certified, which is why applications are sent to GDOT for review. Stephen Collier, Central Services Director, agreed.

Mayor Hubbard clarified that 19 were solicited. Ms. Fields explained the process of soliciting, adding that they do not know how many are certified.

Mayor Pro Tem Postell asked if only one contractor responded, would that be considered a bid or would it be put back out. Mr. Taylor stated that there can be just one bid received and that bidder can be awarded the contract. Mr. Collier added that they would then call all competitors to find out why – which is standard protocol.

Commissioner Howard mentioned cities with a minority population and the gray area of a definition for 'good faith effort' making it all flabbergasting. Mr. Collier stated that with airport

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bids, 'good faith effort' was rejected and this is looked at when it is reviewed. He assured the Commission that when they look at the good faith effort, they take an in-depth look. Commissioner Howard asked if they only look at Albany/Dougherty County; Mr. Collier replied that they look at the region. Commissioner Howard stated that having a minority procurement office will be one of his pet peeves during the next two years.

Commissioner Marietta suggested that discussions of this nature be conducted at the retreat.

Hearing no further comments, the motion carried 5-1, with Mayor Pro Tem Postell voting no.

FY 2015 BUDGET CALENDAR

Larry Johnson, Budget Officer, discussed information as noted. In reply to Mayor Pro Tem Postell, Mr. Taylor clarified the budget process, which will be discussed at the upcoming retreat.

PUBLIC FUNCTIONS MATTERS

ADOPTION OF PROPOSED TEXT AMENDMENT TO THE ALBANY/DOUGHERTY ZONING ORDINANCE

Aaron Blair, ADICA Director/Downtown Manager, discussed information as noted (copy on file) pertaining to sending text amendment to the Planning Commission regarding Downtown Riverfront Overlay District.

Commissioner Hines moved to approve, seconded by Commissioner Marietta.

Mayor Pro Tem Postell questioned having various areas designated historical within the City, but no historical areas designated in the south. Mr. Blair stated that this particular requirement is strictly for the downtown district. Discussion followed with Mr. Taylor stating that the historical designations were those already existing, no new ones were created. Mayor Pro Tem Postell countered that this is due to racial issues and that south Albany needs to be inclusive. Mr. Taylor stated that a historical designation can be designated.

Mayor Hubbard asked if there is a need to include other areas as historic. Planning Director Paul Forgey explained the process of citizens working with the City, adding that in 2002, he worked with former Commissioner Arthur Williams to designate portions of south Albany as historic.

Mayor Pro Tem Postell stated that he will work with planning staff to see that this is done in south Albany.

Hearing no further comments, the motion unanimously carried.

ITEMS FOR FUTURE AGENDA

Commissioner Howard asked Mr. Taylor if an email was sent regarding sidewalks. Mr. Taylor stated that this is in litigation and he cannot discuss it in open meeting.

COMMUNITY & ECONOMIC DEVELOPMENT MATTERS

CUTLIFF GROVE FAMILY RESOURCE CENTER, INC.

Mr. Davis discussed information as noted (copy on file) regarding Nativity Village's cash flow, repairs/maintenance, etc.

Commissioner Marietta noted page 17 and asked for a breakdown of the \$100,000 operational expenses. Shelena Hawkins, Interim Community Development Director, stated that with the projected revenue of \$200,000, expenses are as follows: insurance (\$19,000); maintenance/repairs (\$25,000); property taxes (\$27,000); professional services (\$11,000); supplies (\$7,200); telephone services (\$4,500); utilities (\$7,500); personnel costs (\$25,000).

Commissioner Howard asked if it would be on a monthly basis for funds to go into the escrow account, with Community Development monitoring. Ms. Hawkins agreed, adding that updates will be provided in the City Manager's monthly report. Commissioner Howard stated that his vote will be based on this not being brought back in two years. Ms. Hawkins stated that information provided is based on a five-year projection. Mr. Taylor stated that they should not be back within the next couple of years. Commissioner Howard asked Ms. Hawkins if option 2 is the most viable. Mr. Taylor stated that this issue should not be brought back before the five year period. Commissioner Howard asked about non-compliance. Mr. Taylor stated that any failure to comply within the specified time period is considered a default. Discussion followed on defaulting, with Mr. Taylor explaining that as long as they do what they are supposed to do in good faith effort, they should be able to meet their obligation. He discussed the wording 'to be paid monthly', adding that it is the requirement as opposed to the previous annually'. They will not be in default if they are slightly short on the payment one month, but make it up the next. In reply to Commissioner Howard, Mr. Taylor commented on challenges they are faced with i.e., drainage, air conditioning, having been built in a flood area, etc.

Mayor Pro Tem Postell commented on the length of time this discussion has taken place, adding that staff has done a good job in breaking down information. He stated that this project is in his ward, they have paid their money and met their obligation, etc., with eight units needing to be repaired before being rented. He suggested approving staff's recommendation of either option and asked if staff can handle either recommendation; Ms. Hawkins replied in the affirmative.

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Commissioner Marietta again questioned the \$100,000 operational expenses, adding that the breakdown Ms. Hawkins gave comes to \$127,000 and asked if there is a reason for the discrepancy. Ms. Hawkins stated it should be \$101,000. Discussion followed with Mr. Taylor adding the costs to be \$126,200. In reply to Commissioner Marietta, Mr. Taylor stated that it could be personnel. Phyllis Brown, Program Compliance/Accounting Manager, explained that the \$25,000 discrepancy is due to removing all maintenance/repairs, adding that it is not included in the \$100,000, as noted, but is in the \$99,374.

Mayor Hubbard asked if the insurance cost included flood insurance. Ms. Hawkins stated that storm water was not factored in. Mayor Hubbard mentioned selling the property and asked Mr. Davis to explain the sale of public property. Mr. Taylor stated that he emailed a copy of state law regarding this which states that government property is sold by advertising for public sale or through sealed bid. He agreed with Mayor Hubbard that this was not an option.

Mayor Pro Tem Postell moved to accept option 2 with the stipulation that staff monitors/supervises, seconded by Commissioner Hines; the motion carried 4-2 with Commissioners Marietta and Langstaff voting no.

PUBLIC SAFETY MATTERS

BREED SPECIFIC ORDINANCE

Mr. Davis discussed information as noted (copy on file).

Discussion followed with Commissioner Marietta asking if there are Georgia cases whereby a breed specific ordinance has been determined unconstitutional. Mr. Davis said he could not find such, but added that does not mean it cannot happen in the future. Commissioner Marietta commented on emails saying it is unconstitutional and questioned that being the case in Georgia. He asked about other cities which have adopted breed specific ordinances. Mr. Davis stated some from the metro area. Commissioner Marietta asked if a provision can be made for those who have well behaved/trained pit bulls and grandfather in those who have not been a problem, or, if an amendment can be made for those who have well behaved pit bulls being omitted from the provisions of the ordinance. Mr. Davis replied that he has no way to handle the logistics of such a provision. Commissioner Marietta stated that his definition of 'well behaved' would be those animals that have never had a complaint lodged against them; grandfather in those dogs.

Additional discussion followed with Mr. Taylor stating that because they are not currently registered, we do not know who owns pit bulls. If they are grandfathered, it would have to be known that they are here. Commissioner Marietta explained that he wants to be fair to responsible pet owners who have already taken measures to protect their animals as well as others. In response to Mayor Hubbard, he stated that requiring them to get liability insurance in order to comply with the law penalizes them. Mr. Taylor asked who would make the

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determination that properly secured animals would be exempt; Commissioner Marietta suggested that Animal Control could.

Mayor Pro Tem Postell stated that pit bulls in Albany are trained to fight and trainers do not have control of their dogs and even secured dogs manage to escape. He mentioned dogs in heat roaming and not being controlled with pit bulls being vicious with children and then moved to adopt the ordinance as written, seconded by Commissioner Howard.

Commissioner Hines asked the amount of required insurance. Mr. Davis stated \$25,000 or \$15,000 coverage. Mr. Taylor stated \$100,000 liability. Commissioner Hines suggested that if this is passed, those with pit bulls will have to purchase the insurance and the cost could be prohibitive. Mr. Taylor stated that we can check, but it will be contingent on the location, whether the dog has presented problems in the past, etc., adding that a survey can be done.

Commissioner Marietta asked Officer Capers [Animal Control Officer] if this is adopted, if Animal Control sees a pit bull in someone's yard, will he ask for liability insurance or wait until there is a complaint. Officer Capers stated that if the dog is inside the yard, they will knock on the door and ask to see the liability insurance. Discussion followed on insurance premiums covering the number of dogs, etc. Mr. Taylor stated that some will be covered under homeowner's policy, etc. Commissioner Marietta asked if the CAC discussed insurance. Mr. Davis and Wes Smith, Asst. City Manager, discussed information considered by the CAC, adding that Lagrange has a policy; he will get that information, however, he stated that the range is vast. Commissioner Marietta offered an amendment to the motion that the amount of liability be \$50,000 based on the Lagrange information. Commissioner Postell stated that he cannot accept this amendment.

Commissioner Hines asked how this impacts breeders. Mr. Taylor stated that they will have to have liability coverage. Mr. Davis advised that breeders must have a license per state law.

Commissioner Howard asked about vicious dogs within the city being in an enclosure, etc., with Mr. Capers explaining the procedure in place.

Mayor Hubbard asked for clarification of the ordinance and if it allows clear guidance and authority for Animal Control to act regarding dangerous animals. Officer Capers replied in the affirmative. Mayor Hubbard questioned community education program as part of the recommendation of the CAC. Mr. Davis stated that informational meetings can be held and the ordinance published so that the community will know what was passed.

Mayor Pro Tem Postell asked Ofc. Capers the approximate number of pit bull cases he has handled to-date. Officer Capers replied that he does not have that information. Mayor Pro Tem Postell asked how many vicious pit bull cases have there have been in Albany/Dougherty County since he has held his position. Ofc. Capers replied that he does not have those numbers, adding that there are dogs than are mix breeds that have the traits of pit bulls. Mayor Postell questioned the amount of money this will cost owners.

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Commissioner Langstaff agreed with Commissioner Marietta about how this will be policed and commented on the specific enclosure as noted in the ordinance. He suggested that Mr. Davis go over this with Officer Capers regarding search/seizure and mentioned the registration process. Mr. Davis agreed, adding that this is why there is so much information in the ordinance. Commissioner Langstaff referred to page 32 – ‘any such enclosure’ - as it pertains to enclosure (roof and bottom), etc. Mr. Davis explained that yards with a perimeter fence must meet standards to prevent dogs from digging out. Commissioner Langstaff suggested that this could be a problem and suggested that he may need to see what other cities have in place, adding that he sees this as being vague and not clear to the owner. He said he will abstain until he figures it out.

Commissioner Hines mentioned the fence already in place around his house and asked if he will have to do something to the bottom so that the dog cannot dig under the fence. Mr. Davis agreed that this has to be done to the perimeter fence, etc. Commissioner Hines asked how high the fence has to be. Mr. Davis stated that a fencing company will be contacted to determine the standard in the industry.

Hearing no further discussion, the motion failed 3-2-1 with Commissioners Marietta and Langstaff voting no and Commissioner Hines abstaining. Commissioner Marietta suggested working out a compromise to some parts of this issue, i.e., fencing, etc., adding that there is no rush to pass the ordinance.

Mayor Pro Tem Postell asked if there is a pit bull attack tomorrow, would the City be liable based on the discussion held today. Mr. Davis stated he does not see any liability on the passage or failure to pass the ordinance. He recommended that the photos the City Manager has of those who were attacked by pit bulls be viewed by those who are not convinced something needs to be in place.

Commissioner Marietta asked for another option regarding height of the fence, dogs roaming the back yard if a fence is secure, etc., compromise on issues while protecting the public. He stated that common sense needs to be a part of the process in order to have an effective ordinance.

Commissioner Langstaff stated that he was prepared to vote for the ordinance, but wants to speak with one of the CAC members who voted against to ascertain their rationale. He stated that he does not think the ordinance, as written, is defensible. Mr. Davis stated that he will work up additional options.

There being no further business, the meeting adjourned at 10:16 a.m.

SONJA TOLBERT
CITY CLERK