PRESENT: Mayor Dorothy Hubbard

Mayor Pro Tem Jon Howard

City Commissioners: Bobby Coleman, BJ Fletcher, Roger Marietta, Bob

Langstaff, Jr., and Tommie Postell (arrived @ 6:49 pm)

Interim City Manager: Tom Berry
City Attorney: C. Nathan Davis

Mayor Hubbard called the meeting to order at 6:39 pm.

The Pledge of Allegiance followed the invocation given by Reverend Tywon Heath, Greater Friendship Missionary Baptist Church.

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

Mayor Hubbard opened the public hearing for the following:

1. Property Tax Millage Rate

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

2. Zoning Matters - Reasonable Accommodations under FHAA re: individuals with disabilities

Mr. Davis briefly discussed the proposed ordinance regarding paragraph N, specifically in regard to the amended Fair Housing Act (copy on file).

In reply to Commissioner Langstaff, Planning Director Paul Forgey explained that California has taken the lead in this issue and the language mirrors several of its cities, adding that court cases also included. He stated that he could not find any cases in Georgia with this type policy.

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

3. Zoning Matters - Zoning Case #14-048- Nene Properties, LLC; Tracey D. Fripp; BAM Properties, Inc./Owners; Elcan & Assoc., Inc./Applicant. Request to rezone property located at 500 N. Slappey Blvd., 501-505 Haley Dr., and 1023 W. Residence Ave., from C-5 and C-2 to C-2 **conditional** 

Using a power point presentation to review the application, (copy on file), Mary Teter, Planner showed a map of the area and advised that the request to rezone will allow a 10,000 sq. ft. store. She showed the map of surrounding zoning, the land use map, and aerial view map and advised of the compatibility use of the property, etc., adding that adverse effects were alleviated through the proposed conditions. She discussed the comprehensive plan and advised that the Planning Commission recommends conditional approval as follows: 1) The following uses are not allowed at this location: Motor vehicle sales, service, and repair; retail sales of manufacturing or farm equipment; bars; lounges; event centers; 2) Access to the property is prohibited from Haley Street; 3) Outdoor lighting will be directed away from adjacent residences on Haley Street; 4) A solid privacy fence, minimum six feet in height, shall be located between Lots 9 and 10 on Haley Street. Leyland Cypress trees (or other similar fast growing tree), a minimum six feet in height at planting, shall be planted and maintained inside the privacy fence. Fencing and a vegetative buffer shall continue south on Haley Street to a point determined by planning staff to adequately screen adjacent residential properties to the east of Haley Street. The height of fencing and location of vegetative buffering will be determined by planning staff during the site plan review process. Required fencing and vegetative buffer, including Leyland Cypress, must be shown on the site plan and planted prior to issuance of a certificate of occupancy. (Commissioner Postell arrived at the meeting at this time).

Commissioner Marietta asked the name of the store wanting to locate there. Ms. Teter stated that it is a commercial retail store; she does not have the name.

Commissioner Fletcher stated that she spoke with realtors and looked at the area, adding that she feels it will be good for the area and will create jobs. Referring to the conditions, she asked if they can be removed in the future. Ms. Teter stated that the conditions could be removed and explained the process.

Commissioner Postell asked the name of the property owners. Ms. Teter stated that Chester (Bubba) Baker, a representative of the applicant Elcan & Associates, is present to answer questions. In reply to Commissioner Postell, Mr. Baker stated that he represents Elcan & Associates, which is a firm in Mobile, Alabama, adding that he cannot disclose the name of the developer. He commented on the planning process and advised that they are in contract with the land owners, and that he is in charge of research, site location, etc. Commissioner Postell questioned the location of the property, with Ms. Teter locating the site on a map and Mr. Baker advising that it will be a commercial retail 10,000 sq. ft. building. Discussion followed with Mr. Baker stating that the applicant agrees with all of the conditions with the exception of 'motor vehicle sales, service and repair and, retail sales of manufacturing or farm equipment. He explained that these restrictions would have a negative impact on future retail uses and asked that the Commissioner reconsider and remove these conditions. He added that they want to be on the same playing field as all other C-2 zoning on Slappey.

Commissioner Coleman asked Mr. Baker if he is requesting the City to structure the rezoning in such a way that no one but the company he represents can exist there, e.g., he wants the restriction on auto sales. Mr. Baker clarified that they do not want restrictions on auto sales; they want flexibility for the future. They will use the property for commercial/retail sales, but if down the road the location is viable for that kind of use, they can be compatible and compete with adjacent zoning.

Mayor Hubbard stated that she is unsure if the Commission can provide that kind of guarantee because one Commission cannot bind future Commissions. Mr. Davis interjected that they can apply for rezoning to remove the conditions in the future. Mr. Baker countered that their experience has been that once conditions are in place it is extremely difficult to have them removed. Mayor Hubbard asked Mr. Baker if this is a deal breaker; Mr. Baker advised that the corporation wants an exit strategy for the future, while also being competitive with the C-2 zoning.

Commissioner Coleman suggested applying for the rezoning in the future when it is needed instead of now. Mr. Baker reiterated the desire to be on a level playing field with all other C-2 zoning.

Commissioner Fletcher asked if the conditions in question were set just for this application or on all adjacent C-2 zoning. Ms. Teter explained that conditions vary depending on the location of the property and land use around it; however; these conditions were put in for this specific application. In reply to Commissioner Fletcher, Ms. Teter advised that the Commission can remove the recommended conditions.

Additional discussion ensued with Commissioner Postell stating that the request is for the Commission to do something that is hypothetical; we do not know the name of the business or what they plan to do there. Mr. Baker explained that currently other C-2 districts do not have restrictions. Regarding the rationale of the conditions, Ms. Teter explained that the use could have a negative impact on the residential neighborhood. Mr. Baker stated that he would hope the residents of the area will shop at the store, adding that they agree with the other conditions as it pertains to the residential area. In reply to Commissioner Postell on the number of jobs that will be created, Mr. Baker stated there will be approximately 12 employees, with some being part-time.

Commissioner Fletcher said she knows the name of the store and feels that the residents will be delighted, adding that it will also light up the area; she asked that the conditions be lifted.

Mr. Forgey explained that conditions are set in order to protect neighboring uses from the new use; lots of C-2 zoning have conditions based on the location. In their aim to protect the neighborhood, Planning did not feel that a car lot would be appropriate in this area.

There was no one desiring to speak on this matter.

4. Zoning Matters - Zoning Case #14-049 - Mark Gavin Properties One, LLC/Owner/Applicant; request to rezone property located at 2805 Wilmar Lane, 2714 Elton St., 2105 & 2111 Schley Ave., from R-2 and R-3 to C-3 **conditional** 

Using a power point presentation to review the application (copy on file), Ms. Teter located the property on a map and advised that the request to rezone will allow expansion of Mark's Greenhouse. She discussed surrounding zoning, displayed an aerial view of the property and planning consideration. She advised that the Planning Commission approved conditional rezoning as follows: 1) The use of the property is restricted to "Commercial Greenhouse Operations and Sales" and related operations (plant nursery, landscaping services, etc.); 2) The use of the property is conditioned to the applicant's proposed site plan with the following exceptions: a) Minor modifications to the site plan are allowed pending administrative review and approval by the Director of Planning; b) Access is restricted to Wilmar Lane and the existing driveway located at 2113 Schley. Additional access from Schley will be allowed when the property at 2107 Schley ceases to be residential.

There was no one desiring to speak on this matter.

5. Zoning Matters - Zoning Case #14-051- Jerry & Lynda Brimberry/Owners; Lanier Engineering, Inc./Applicant. Request to rezone property located at 3203 Gillionville Rd., from C-8c to C-2 **conditional** 

Using a power point presentation to review the application (copy on file), Ms. Teter showed a map of the location and advised that the request to rezone is to allow the development of a grocery store. She displayed the site plan, map of surrounding zoning and the land use map.

Commissioner Marietta questioned the size of the store with Ms. Teter advising that it will be a 14,358 sq. ft. grocery store. Continuing with the presentation, she discussed planning considerations and advised that the Planning Commission recommends conditional approval as follows: 1) The following uses are not allowed at this location: Motor vehicle sales, service, and repair; retail sales of manufacturing or farm equipment; bars; lounges; event centers; 2) Commercial access to the subject property is prohibited from Whisperwood Street. She stated that the applicant agrees to the conditions.

A brief discussion followed with Commissioner Postell asking if these are the same conditions as the prior application. Ms. Teter replied in the affirmative and advised that it is a separate application, but conditions are the same.

Deborah Coutter stated that she is new to the area and has a question regarding the millage rate. Mayor Hubbard stated that the matter will be revisited once the other public hearing matters have been discussed.

Bobby Donley, Lanier Engineering, stated that he is present to answer any questions.

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

6. Special Approval - Special Approval Case #14-053- Kerrie Davis/Applicant; Mt. Zion Baptist Church/Owner. Request special approval to allow the facility at 1905 MLK, Jr., Drive to be used for an after school care center.

Using a power point presentation to review the application (copy on file), Ms. Teter displayed a map of the property and advised that special approval is required by the Commission to allow for an after school program. She stated that the location is where the former Mt. Zion Baptist Church was located and showed a map of surrounding zoning and land use map and gave the hours of operations and the location of access. She advised that the Planning Commission recommends approval.

There was no one desiring to speak on this matter.

7. Special Approval Case #14-054- Willie & Alvin Essie/Owner; Clarese Cook/Applicant; request special approval to allow the facility at 2519 MLK Jr., Drive to be used for a group day care center

Using a power point presentation to review the application (copy on file), Ms. Teter displayed a map of the location and advised that special approval is required by the Commission for the property to be used as a group day care center. She showed a map of surrounding zoning, the land use map, aerial view map and a photo of the former day care advising that it was closed three years ago, therefore, they lost their grandfather protection. After reviewing the hours of operation and access to the property, she stated that the Planning Commission recommends approval.

Commissioner Postell stated that this is in his ward and asked why the day care closed. Ms. Teter said she does not know, and, in reply to Commissioner Postell, she explained that the daughter of the owners (whom Commissioner Postell said were deceased) wants to reopen the day care now. In response to Commissioner Postell, she said that the day care is capped at 18 children.

There was no one desiring to speak on this matter.

At this time, Mayor Hubbard stated that she will entertain questions from Mr. and Mrs. Coutter, who signed the wrong public hearing sheet and wants to discuss the millage rate. Mr. Coutter explained that they had recently moved to Albany and they are concerned about increased property taxes and asked when it takes effect, adding that they have already paid their taxes. Mr. Davis explained that taxes are due at the end of each year, adding that the public hearing had to do with the millage rate as it pertained to the re-evaluation of properties. He advised that it is not a 'real' tax increase.

Commissioner Marietta stated that half of the taxes go to the School Board and 30% goes to Dougherty County with the city getting only 20%. He explained that it appears there was a tax increase, but it was a reflection of an increase in the digest. Commissioner Fletcher stated that the millage rate is the same as it was (9.9) and agreed that taxes did not go up.

Ms. Coutter stated that she was born in Albany, but moved away when her father transferred to another duty station. Retiring to Albany, she complimented the city for being clean, adding that trash is being picked up. Mayor Hubbard thanked Mr. and Mrs. Coutter for their comments, adding that her 'Call to Service' encourages all citizens to help with keeping Albany clean. She then closed the public hearing portion of the meeting.

## REPORT OF COMMITTEE OF THE WHOLE

Following the recommendation of the Committee of the Whole, Commissioner Postell moved to approve the following Alcohol License Application, seconded by Commissioner Marietta; the motion carried 6-1 with Mayor Pro Tem Howard voting no.

1. Food Giant Supermarkets, Inc., d/b/a Pic N Save #775, 2203 E. Oglethorpe; B. Conley/Agent. Beer/Wine package

Following the recommendation of the Committee of the Whole, Commissioner Langstaff moved to approve the following One Day Alcohol License Application, seconded by Commissioner Postell; the motion carried 6-1 with Mayor Pro Tem Howard voting no.

1. Mission Change, L. Urick/Agent; Charity Event, Exchange Club Fairgrounds, 810 S. Westover Blvd., August 22, 2014; 4:00 p.m. – 11:59 p.m.

Following the recommendation of the Committee of the Whole, Commissioner Postell moved to approve the following One Day Alcohol License Application, seconded by Commissioner Marietta; the motion carried 6-1 with Mayor Pro Tem Howard voting no.

2. Albany Chamber of Commerce; C. Hardy/Agent; State of Community Dinner; Albany Tech College, 1704 S. Slappey Blvd., August 28, 2014; 6-8 p.m.

Following the recommendation of the Committee of the Whole, Commissioner Marietta moved to approve the following One Day Alcohol License Application, seconded by Commissioner Postell; the motion carried 6-1 with Mayor Pro Tem Howard voting no.

3. Flint River Habitat for Humanity, Inc., A. Sheppard/Agent; Fundraiser, Austin's Firegrill & Oyster Bar, 2817 Old Dawson Rd., August 9, 2014; 6-11 p.m.

Commissioner Postell moved to approve the following special approval application, seconded by Commissioner Marietta; the motion unanimously carried.

1. Special Approval Case #14-053- Kerrie Davis/Applicant; Mt. Zion Baptist Church/Owner. Request special approval to allow the facility at 1905 MLK, Jr., Drive to be used for an after school care center.

Commissioner Postell moved to approve the following special approval application, seconded by Commissioner Marietta; the motion unanimously carried.

2. Special Approval Case #14-054- Willie & Alvin Essie/Owner; Clarese Cook/Applicant; request special approval to allow the facility at 2519 MLK Jr., Drive to be used for a group day care center.

Commissioner Marietta moved to approve the following current bid, seconded by Commissioner Postell; the motion unanimously carried.

1. Office Supplies, Staples Business Advantage
Estimated annual expenditure \$143,000.00

Commissioner Marietta moved to approve the recommendation of the City Manager to ratify the appointment of Phil Roberson as Assistant City Manager effective July 23, 2014, seconded by Commissioner Postell.

Mayor Pro Tem Howard stated that he will vote against this recommendation; even though Mr. Roberson has done an excellent job at Public Works, he has concerns regarding the transition from Public Works. He agreed that Mr. Roberson will make a good Assistant City Manager, but this appointment will leave a void at Public Works.

Commissioner Marietta stated that he likes the idea of Mr. Roberson being an Assistant City Manager, adding that Mr. Roberson has done a good job with the health insurance and serving on the Pension Board. He said he will vote for this appointment.

Mayor Hubbard asked Mr. Berry if Mr. Roberson will indeed remain on the Pension Board; Mr. Berry replied in the affirmative.

Commissioner Postell stated that this will bring about continuity and Public Works will be under Mr. Roberson to a point. It will strengthen the department.

Mayor Hubbard agreed that Mr. Roberson is a valuable employee who has run Public Works smoothly and makes the City proud. She said she agrees with the promotion to the new level as based on job performances, continuous service, good ideas and dedication; he deserves this. She added that it is an example to other employees to believe that they, too, can move to the next level.

Commissioner Coleman agreed with Mayor Hubbard, but questioned the need for two Assistant City Managers. In his short time on the Commission, he stated that Mr. Roberson has always been prompt and responsive and agreed that he will make a good Assistant City Manager, but again questioned the need for two Assistant City Managers.

Hearing no further comments, the motion carried 5-1-1 with Mayor Pro Tem Howard voting no and Commissioner Coleman abstaining.

#### **ORDINANCES**

Commissioner Marietta introduced for the second reading

#### AN ORDINANCE NO. 14-113

Amending Sect. 4(d)(3) of the Charter of the City of Albany re: Certain Powers of the City Manager

Commissioner Marietta then offered the ordinance and asked for its adoption, seconded by Commissioner Postell; the motion carried 5-2 with Mayor Pro Tem Howard and Commissioner Coleman voting no.

The Clerk read the second reading of the following:

#### AN ORDINANCE NO.

Amending Sect. 26 of the Charter of the City of Albany to provide that the City Manager will be the General Manager of the WG&L Commission, providing for a Budget Committee of WG&L Commission, provided for powers of the City Manager; Amending Sect. 34(13) to provide for extension of Water, Gas Distribution Service and Electricity Beyond the corporate limits of the City of Albany

Commissioner Postell referred to paragraph two regarding 'going beyond the corporate limits of the City of Albany' and asked where this will go. Mr. Berry stated that this is an opportunity to go wherever it makes sense to serve. Commissioner Postell asked if it includes going to other counties; Mr. Berry said that it is a possibility. Commissioner Postell asked if this is part of the \$250,000 amount of WG&L Board members approving and not the City Commissioners. Mr. Berry replied that they could go together, but not necessarily.

Commissioner Marietta mentioned the early briefing and moved to table to allow the City Manager and City Attorney to clarify what is being done, seconded by Commissioner Coleman; the motion carried 4-3 with Mayor Hubbard and Commissioners Fletcher and Langstaff voting no

Commissioner Postell introduced

## AN ORDINANCE NO. 14-114

Amending Subsection 2.01 6(n) of the Albany/Dougherty Zoning Ordinance so as to adopt a formal policy on reasonable accommodations

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

Discussion followed with Commissioner Langstaff expressing concerns pertaining to ways to accomplish reasonable accommodations. He said he has been researching other cities and mentioned the public having an appeal process; his concern is citizens not knowing in advance and the appeal process. Mr. Davis stated that he is comfortable with the wording and the draft. Mr. Forgey stated that this issue has not been completely settled in court and many cities have different rules. He suggested that adding more hurdles - such as public approval for the disabled to live somewhere is not fair to the process. While other cities do that, it was not put in the City's ordinance because of the fear that it is not legal and not the best approach. Commissioner Langstaff countered that leaving the citizens out of the mix will cause them to feel that they were left in the dark. In reply to Commissioner Langstaff on requiring information/notice on the front end as opposed to the back end, Mr. Davis opined that the court will view this as not excluding or requiring special permitting.

Commissioner Postell mentioned that this was discussed last year and suggested moving forward.

Hearing no further comments, the motion carried 6-1 with Commissioner Langstaff voting no.

Commissioner Postell introduced

#### AN ORDINANCE NO. 14-115

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 500 N. Slappey Blvd., 501-505 Haley Dr., and 1023 W. Residence Ave., from C-5 and C-2 to C-2 **conditional** 

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

Commissioner Fletcher asked if the conditions will be lifted. Commissioner Postell replied in the negative.

Commissioner Marietta offered a friendly amendment to exclude motor vehicle sales, service and repair, retail sale of farm equipment as conditions. Regarding bars/taverns/event centers, he stated that they must have special approval from the Commission in the future regardless of how it is zoned; he asked Commissioner Postell if he accepts this amendment. Commissioner Postell accepted the amendment.

Mayor Hubbard clarified that the conditions to which Mr. Baker objected will be eliminated. Commissioner Marietta repeated his amendment, which includes motor vehicle sales, service and repair, retail sale of farm equipment, but does not include bars, lounges and events centers since these come before the Commission for vote anyway. Mr. Baker agreed with the amendment/conditions.

Hearing no further comments, the motion carried 6-1 with Mayor Pro Tem Howard voting no.

Commissioner Postell introduced

### AN ORDINANCE NO. 14-116

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 2805 Wilmar Lane, 2714 Elton St., 2105 & 2111 Schley Ave., from R-2 and R-3 to C-3 **conditional** 

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

Commissioner Langstaff introduced

### AN ORDINANCE NO. 14-117

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 3203 Gillionville Rd., from C-8c to C-2 **conditional** 

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 Postell, the motion unanimously carried.

Commissioner Postell introduced

### AN ORDINANCE NO. 14-118

Levying and assessing the rate of Taxation for City purposes on all Taxable Property in the City of Albany for 2014 re: Millage rate

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

#### **RESOLUTIONS**

Following the recommendation of the Committee of the Whole, Commissioner Marietta moved to adopt the following resolution, seconded by Mayor Pro Tem Howard; the motion unanimously carried.

#### A RESOLUTION NO. 14-R153

Designating Corner Concept #3 to be part of the Environmental Assessment Process re: Multimodal Site

Following the recommendation of the Committee of the Whole, Commissioner Postell moved to adopt the following resolution, seconded by Commissioner Fletcher; the motion unanimously carried.

#### A RESOLUTION NO. 14-R154

Awarding CDBG funds to Flint River Habitat for Humanity for administration of an Emergency Home Repair Program

Following the recommendation of the Committee of the Whole, Commissioner Marietta moved to adopt the following resolution, seconded by Commissioner Postell; the motion unanimously carried.

### A RESOLUTION NO. 14-R155

Authorizing the extension of Sanitary Sewer for Dougherty County

Commissioner Marietta stated that he had heard that McDonalds will break ground in August.

Following the recommendation of the Committee of the Whole, Commissioner Langstaff moved to adopt the following resolution, seconded by Commissioner Postell; the motion unanimously carried.

### A RESOLUTION NO. 14-R156

Accepting FAA Grant offer for FY 2014

Following the recommendation of the Committee of the Whole, Commissioner Postell moved to adopt the following resolution, seconded by Commissioner Fletcher; the motion unanimously carried.

## A RESOLUTION NO. 14-R157

Authorizing use of SPLOST VI funds re: Network Video Recorder Servers

Following the recommendation of the Committee of the Whole, Commissioner Postell moved to adopt the following resolution, seconded by Mayor Pro Tem Howard; the motion unanimously carried.

### A RESOLUTION NO. 14-R158

Authorizing use of SPLOST VI funds re: Alley Paving/Phase I

Following the recommendation of the Committee of the Whole, Commissioner Postell moved to adopt the following resolution, seconded by Commissioner Fletcher, the motion unanimously carried.

### A RESOLUTION NO. 14-R159

Authorizing use of SPLOST VI funds re: Emergency Repair Eastside Interceptor Sewer

#### CONSENT AGENDA

Commissioner Postell moved to approve the following consent agenda, seconded by Commissioner Marietta; the motion carried 5-2 with Mayor Pro Tem Howard and Commissioner Coleman voting no.

Recommendation of the Committee of the Whole to ratify the appointment of Stephen Collier as Asst. City Manager for Utilities effective July 3, 2014 re: WG&L

#### Current Bids:

- 1. Microsoft Enterprise Agreement; Dell Marketing, LP, Round Rock, TX

  Total expenditure \$162,308.16
  - City's share \$138,638.22 Consultant – Transit Plan, RSH Transit Development Plan Consultant Serv.

Total amount

\$83,159.00

3. Rehab of Waste Water Treatment Plant pumps, Waco Electric, Sanderson, GA Estimated expenditure \$79,296.00

#### OTHER BUSINESS

2.

Commissioner Fletcher recognized those in the audience who participated at Tift Park this past Saturday and thanked them for helping make the event a success.

Commissioner Marietta recognized the Public Works employees in the audience who were there in support of Phil Roberson.

Commissioner Postell offered an apology for being late and said that he would explain his reason to Mayor Hubbard.

There being no further business, the meeting adjourned at 8:13 p.m.

	MAYOR	
ATTEST:		
CITY CLERK		