

MARCH 27, 2018

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

PRESENT: Mayor Dorothy Hubbard  
Mayor Pro Tem Bob Langstaff, Jr.  
City Commissioners: Jon Howard, Matt Fuller, BJ Fletcher, and Roger Marietta  
Asst. City Manager: Phil Roberson  
City Attorney: C. Nathan Davis

Mayor Hubbard called the meeting to order at 6:24 p.m., and called for a moment of silence, which was followed by the Pledge of Allegiance. She then instructed the audience again on the procedures for addressing Commissioners regarding matters on the current agenda or to speak in the future regarding other issues.

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

#### ALBANY POLICE DEPARTMENT 2017 AWARDS

Chief Persley stated that this is the annual awards presentation in which personnel for the police department are recognized by their peers for outstanding job performance. As he announced each category, he asked that awardees come forward and explained the reason they are being recognized tonight. The 2017 Commander-in-Chief Award; Corp. Terrance Bryant, Corp. Charlie Roberts and Corporal Kalandria Peterson-Kearney; 2017 Civilian of the Year: Ms. Erika Clark; 2017 Citizen of the Year: Sgt. (Ret.) Dean Gore, Jr. (Mrs. Gore accepting on behalf of Sgt. Gore), and Maj. (Ret.) Dan Hill, Sr.; 2017 Officer of the Year: Lt. Joseph Moored.

#### PUBLIC HEARINGS

1. Special Approval Case #18-007 – Kai Burk/Applicant; request for Special Approval for property located at 2601 Dawson Rd. (Former Sears Auto Center); to construct a fast food restaurant with a drive-thru window in the C-7 (Mixed-Use Planned Development) District

Using PowerPoint, Planning Director Paul Forgey reviewed the Special Approval case, displaying an aerial view and discussed: demolition of auto center and building a 5100 sq. ft. restaurant; indoor/outdoor dining; surrounding zoning/land uses; traffic trips; road improvements; transit services; being in Top Ten Accident area; site plan showing ingress/egress, with two existing entrances being closed; parking; hours of operation; and Future Land Use Map recommendation. He advised that the Planning Commission recommends approval.

In response to Mayor Hubbard, Mr. Forgey discussed the closure of two entrances/exits, which will limit traffic on Dawson Road. Commissioner Marietta commented that this will be a boon to the mall area.

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

2. Special Approval Case #18-008 – Gregory J. Hartmayer; OFM Conv./Applicant; request for Special Approval for property located at 421 Edgewood Ln; to install a columbaria to the rear of St. Teresa's Catholic Church in the R-1 (Single-Family Residential) District

Mr. Forgey reviewed the Special Approval Case using PowerPoint to display an aerial view of the property and explained the definition of columbaria and its placement. The columbaria will have niches for 297 urns with a fourth vault planned at a later date to hold 99 urns. He discussed surrounding zoning; land use; traffic trips; access through a parking lot and office during church hours; transit services; visitation hours; parking; location of the columbaria on the outside walls of the church; Future Land Use Map recommendation; with there being no negative impact on adjacent properties. He advised that the Planning Commission recommends approval.

Mayor Hubbard recognized Sanford Hillsman, who had signed up to speak.

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Mr. Hillsman, as a Planning Commission board member spoke in support of the application and stated that the installation of the columbaria has been in the works for quite some time. Mayor Hubbard, noting that Mr. Hillsman is on the Planning Commission, asked if that is why he abstained; he replied in the affirmative.

Commissioner Marietta stated that this is in his ward and most of the comments have been positive. It will enhance the peaceful setting for parishioners to visit deceased ancestors.

Angel Bradford stated that she, too, is a parishioner at St. Teresa's, and her home is directly across the alley from the rear of the church. The columbaria is in a direct line of sight from her den and she has no problem with it being located in the proposed site; she supports the Special Approval request.

In response to Mayor Hubbard, Mr. Hillsman said that currently, burial urns are stored at Crown Hill Cemetery.

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

3. Special Approval Case #18-009- Willie & Annie Singletary/Owner/Applicants; request for Special Approval for property located at 221 Lockette Station Rd; to establish a Child Caring Institution residence for up to six residents in the R-2 (Single-Family Residential) District

Using Powerpoint to review the Special Approval case, Mr. Forgery stated that the location is unusual because the west side of Lockette Station is in the city, with the east side being in the county. Discussing the intent of the applicants to establish a Child Caring Institution, he defined CCI's, which require special approval and discussed the logistics of the facility. Further discussion included no transit service in that area; site plan; parking; Future Land Use Map recommendation; proposed use being compatible with adjacent residential land use (R-2); and aerial view. He advised that the Planning Commission recommends approval.

Commissioner Howard asked how far from the road the residence sits; Mr. Forgey said that he is unsure, but would guess approximately 100 feet.

Mayor Hubbard recognized Willie Hall, who spoke in opposition to the special approval request, stating that he lives immediately next door. Explaining his reasons for opposing the request he said that almost everyone accepting foster children do so for financial gain/income and not for the benefit of the child. He said he has lived next door to foster parents and children are not well supervised and tend to play loud and if there are teenagers, they play loud music all hours of the day/night. He stated that he moved to his home to enjoy the peace and quiet.

In response to Commissioner Marietta, Mr. Hall said that he lives right next door to the proposed facility. Commissioner Marietta noted that the application lists foster children who are female between the ages of six and 12 that will be accepted; he saw nothing about teenagers being accepted on the application. Mr. Hall asked if a girl who, upon turning 12, will be removed from the facility. Commissioner Marietta said that it is the same foster care system so they will be moved to another unit and it's a 'home away from home' environment with the intention of it being a temporary arrangement until children are returned to their homes, when possible. Mr. Hall stated that the paperwork he has seen shows that youth up to age 18 will be allowed and he just does not see them being put out once they reach the age of 12.

Mayor Hubbard recognized Barbara Hall, who also opposed the special approval request because of her health and not wanting foster children next door. She explained that having only two people on staff to care for the children concerns her; she feels that the kids will get out of hand, play loud music, and play loudly outside. She suggested that the applicants institute a facility in their own neighborhood and said she spoke with Ms. Singletary, who insinuated that they were purchasing the property for their own children; she never mentioned opening it up for foster care. She reiterated that she does not want to be bothered by children being next door to her.

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In response to Commissioner Howard, Mr. Hall discussed the footage between the two properties and the setback from the road of each. He said that regardless of the amount of space between them, it doesn't prevent kids from running around, loudly playing. Mr. and Ms. Hall contended that there are problems somewhere from the very start because of the nature of foster care; that is why a child is not with his/her parents.

Mayor Hubbard recognized Annie Singletary. Ms. Singletary advised that they intend to install a fence to keep the kids in their yard and under control. She briefly discussed the statistics of foster care in Georgia and suggested that her desire is to provide a positive environment for children in foster care. Commissioner Marietta stated that it is a worthy endeavor and he disagrees with Mr. Hall's description of typical foster children; however, since the application does state that ages up to 18 can be accepted, he asked what happens when a girl turns 13. Ms. Singletary mentioned that she attended an orientation class in which she learned that residential foster care facilities can accept children between the ages of six and 18; however, her intent is to limit it to age 12 until getting a handle on what to expect. She explained that she has previously been a foster parent, but because of the negativity of the neighborhood, she wants to limit those taken into this facility to younger children. Commissioner Marietta mentioned attending various Neighborhood Watch meetings in that area and there was concern until it was explained that the facility will house younger children, which appeased the concerns. Ms. Singletary advised that she has not obtained her State License until knowing whether the approval was granted. In response to Commissioner Marietta, she said that she has not seen any requirements regarding a fence, but they intend to install one. Commissioner Marietta stated that if he makes a motion to approve, it will be with the condition that a fence be installed, adding that a noise ordinance is in place, based on the comments of Mr. Hall regarding loud music. Ms. Singletary stated that she feels six-year olds will not be playing loud music.

Mayor Hubbard asked if she has any control over whether or not the facility will keep girls beyond the age of 12. Ms. Singletary replied it is up to her who is accepted into the facility and she feels she will have that control. However, if the State insists that she takes in youth over the age of 12, she will not be able to refuse them.

Commissioner Fletcher mentioned that Ms. Singletary had stated that the neighborhood is in an uproar over this proposed facility and it concerns her that these kids will face additional challenges from a resistant neighborhood. In response to Commissioner Fletcher, Ms. Singletary stated that she will not be residing at the facility, but will monitor it to ensure it is running well; they do have someone lined up, pending a background check, to operate the facility.

In response to Commissioner Howard, Ms. Singletary replied that a six-foot, wooden, privacy fence is what she would have constructed and enclosing only the back yard. Mayor Hubbard interjected that the application states that the facility can accept children from six-18. Ms. Singletary agreed; however, starting out she explained again that her intention is to limit the age to no older than 12, if the State allows her to do so. Commissioner Fletcher said that 'if' is a big word and while this endeavor is commendable, she reiterated that the kids will be coming in a neighborhood in which they are not welcomed. Ms. Singletary stated that the kids will come and go; it is only a temporary arrangement until families are approved for the kids to return home. Commissioner Howard asked Mr. Forgey to explain if the facility will be able to limit residents to no older than age 12. Mr. Forgey discussed licensing by the State and advised that if approved, it would be from six-18, even though the Singletary's intent is to only accept up to age 12; they would have the latitude to accept older teens, up to age 18. Commissioner Howard asked about a family of five girls and one boy needing foster care. Mr. Forgey replied that there is a great need in the county and there are special exceptions for families; however, the State would stipulate the facility house only one gender and the Singletary's would have to pass on that situation.

In response to Commissioner Marietta, Mr. Forgey advised that the Planning Commission did not recommend any conditions. However, the City Commission can impose conditions and, requiring a fence is acceptable. Noting that this as a Special Approval case, Mayor Hubbard asked how much leeway the City would have since State statute would override City ordinances. Mr. Forgey replied that in this instance the City has more flexibility, explaining that the

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inflexibility would arise if a facility of this type was for residents in a protected class (disabled, elderly, minority, etc.). Because this is for children, it would not fall within those parameters, which provide the City more flexibility in its decision.

Commissioner Marietta interjected that just because these are foster kids, they should not be labeled as ‘bad’, quite often it’s the parents who are ‘bad’ (abusive, neglectful, molesting, etc.); Mr. Forgey agreed.

In response to Mr. Hall’s concern on the ages of the children, Mayor Hubbard explained that the application states six-18, which is a State decision. While the Singletary’s intend to limit the age to 12, they would be within their rights to take older teens; Mr. Forgey concurred, adding that there is no practical way to condition approval on the age of residents.

There being no further comments, Mayor Hubbard closed the public hearing.

Commissioner Howard moved to excuse the absence of Commissioner Postell, seconded by Commissioner Fuller; the motion unanimously carried.

REPORT OF THE COMMITTEE OF THE WHOLE

Mayor Pro Tem Langstaff moved to approve agenda items number 1, 2, 4, 5 and 6 on Item III under Report of the Committee of the Whole, seconded by Commissioner Marietta; the motion unanimously carried.

1. Special Approval Case #18-007 – Kai Bur/Applicant; request for Special Approval for property located at 2601 Dawson Rd. (Former Sears Auto Center); to construct a fast food restaurant with a drive-thru window in the C-7 (Mixed-Use Planned Development) District
2. Special Approval Case #18-008 – Gregory J. Hartmayer; OFM Conv./Applicant; request for Special Approval for property located at 421 Edgewood Ln; to install a columbaria to the rear of St. Teresa’s Catholic Church in the R-1 (Single-Family Residential) District
4. Stump Grinding; Big Creek Enterprises, Inc. Coolidge, GA;  
Est. total expenditure \$148,482.00
5. Trash Carts; Wastequip/Toter; Statesville, NC;  
Total expenditure \$47,165.76
6. Trash Dumpster; Wastequip; Eaglesville, TN  
Total expenditure \$55,602.00

Commissioner Marietta moved to approve #3, Special Approval Case #18-009, with the condition that a wooden privacy fence be installed all the way around the property. In response to Commissioner Fuller, Commissioner Marietta clarified that he was not including the front of the house in the condition, seconded by Mayor Pro Tem Langstaff, who asked for further clarification. In response to Mayor Pro Tem Langstaff, Mr. Davis said that the fence would start at the sides of the structure and enclose the back of the lot; the Commission has the right to impose this condition.

3. Special Approval Case #18-009- Willie & Annie Singletary/Owner/Applicants; request for Special Approval for property located at 221 Lockette Station Rd; to establish a Child Caring Institution residence for up to six residents in the R-2 (Single-Family Residential) District

The motion carried 5-1 with Commissioner Howard voting no.

APPOINTMENT

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1. Mayor's appointment to Albany Housing Authority for five-year term ending June 2022

Mayor Hubbard announced that she is reappointing Martha Corhen.

ORDINANCES

Commissioner Marietta introduced

AN ORDINANCE NO.

Amending the Zoning Ordinance and Map of the City of Albany to change the status of property located at 401 Johnny W. Williams Road from R-3 to C-1

Commissioner Marietta then offered the ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption. Hearing no second, Mayor Hubbard announced that the motion died.

Mayor Pro Tem Langstaff asked if it is sufficient for the ordinance to die for lack of a second or is a motion to deny in order. Mr. Davis replied that it would be better for someone to follow through with a motion to deny. Commissioner Marietta stated that this parcel is surrounded by vacant land and this business would be an improvement. The objection seems to be in response to the nature of the business, which could be unconstitutional. Mayor Pro Tem Langstaff interjected that he was approached by the applicant earlier, who stated that he has information that the Planning Commission did not have to consider when they voted on this case. He asked if, based on that, it is permissible for the City Commission to send it back to the Planning Commission in light of the additional information, to which they were not privy when first considering this matter. Mr. Davis replied in the negative and advised that there has already been one motion, which failed and it needs to be handled tonight. Mayor Hubbard asked if it could be reconsidered at a later date, perhaps in three months. Mr. Davis asked Mr. Forgey the time frame to again reconsider the application; Mr. Forgey replied that it is a year.

Commissioner Marietta asked to hear the additional information from the applicant; Mr. Davis interjected that a vote was taken. Commissioner Marietta replied that no vote was taken on his motion; Mr. Davis explained that the motion died for lack of a second. Mayor Pro Tem Langstaff stated that Mr. Davis said that another motion was in order, but is now saying that the motion died for lack of a second. Mr. Davis explained for the record that a formal motion to deny is needed. Mayor Pro Tem Langstaff stated that as he understands it, Mr. Davis is saying that regardless of the information the applicant may offer, because the motion died for lack of a second, no one else can make a motion and second it and vote on it. Mr. Davis agreed, explaining that the Zoning Ordinance states that applications that are not approved must wait a year to be brought back for consideration. Commissioner Marietta asked the possibility of rephrasing his motion and withdrawing unanimous consent. Mr. Davis explained that if someone makes a formal motion to deny, then Commissioner Marietta can make the non-consent to two readings. Commissioner Marietta said that he did not have knowledge of the new information until Mayor Pro Tem Langstaff's comments and again asked if the Commission can have access to the new information.

Mr. S. Patel reported that Planning Manager Mary Teter was not aware that he owned the property across the street from the property requesting to be rezoned. Mr. Davis advised that if Commissioner Marietta wished to not waive the second reading, this case would come up again next month.

Commissioner Howard moved to deny, seconded by Mayor Pro Tem Langstaff. Commissioner Marietta stated that he is not waiving unanimous consent, so this is the first reading; the motion unanimously carried. Mayor Hubbard announced that the second reading will be at the next meeting, at which time the applicant may present the new information.

Commissioner Howard introduced the three following ordinances:

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AN ORDINANCE NO. 18-102

Amending Code of Ordinances of the City of Albany changing the regular meeting of the Board of Commissioners from June 26, 2018 to June 27, 2018

AN ORDINANCE NO. 18-103

Amending Code of Ordinances of the City of Albany so that there will only be one meeting of the Board of Commissioners in July, July 24, 2018

AN ORDINANCE NO. 18-104

Amending the Code of Ordinances of the City of Albany so that there will only be one meeting of the Board of Commissioners in December, December 11, 2018

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

OTHER BUSINESS

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

A RESOLUTION NO. 18-R116

Authorizing purchase of real property known as 123 Delta Street for road improvements and authorizing use of SPLOST VI

Mr. Davis advised that the parties are Larry and Cathy Sexton, the sellers, and 123 Delta Street is being purchased for \$25,000, contingent upon a satisfactory environmental assessment.

There being no further business, the meeting adjourned at 7:28 p.m.

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MAYOR

ATTEST

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CITY CLERK