

APRIL 9, 2019
COMMITTEE OF THE WHOLE
GOVT. CTR. – RM. 100

PRESENT: Mayor Dorothy Hubbard
Mayor Pro Tem Tommie Postell
City Commissioners: Jon Howard (entered mtg at 8:44), Matt Fuller, BJ Fletcher,
Roger Marietta and Bob Langstaff, Jr.
City Manager: Sharon Subadan
City Attorney: C. Nathan Davis

Mayor Hubbard called the meeting to order at 8:30 a.m., and reminded the audience of the process to address the Commission (Citizen Comments/Speaker Appearance Forms).

MEETING DATE CHANGE

In reply to Mayor Pro Tem Postell, Mayor Hubbard stated that the information was in the packet, and explained that the June meeting conflicts with the GMA conference; the MEAG conference is scheduled for July and the usual practice is to only meet once in December. The changes are as follows: June 25 to Wednesday June 26; meet only once in July (July 23), cancelling the July 9th meeting; and, meeting only once in December (December 10) and cancelling the December 24th meeting.

CONNECTOR TRAIL EASEMENT AGREEMENT

Mr. Davis discussed information (copy on file) regarding the acceptance of an Easement Agreement from Thronateeska Heritage Foundation, Inc. re: Connector Trail, with there being no cost to the City.

There were no questions/comments regarding this item.

PUBLIC SAFETY MATTERS

ALCOHOL LICENSE APPLICATION:

1. The Flint LLC, d/b/a the Flint; 112 Pine Ave., G. Singfield/Agent; Liquor, Beer and Wine Consumption; WARD 3

There were no questions/comments regarding this item.

ALCOHOL LICENSE APPLICATION – (Transfer of Ownership)

1. HK Cafe Inc., d/b/a Hong Kong Cafe; 2700 Dawson RD., Suite 1 & 2; S. Logue/Agent; Beer and Wine Consumption; Transfer of Ownership to Q. Yuan; WARD 5

A brief discussion followed with Mayor Pro Tem Postell confirming information regarding the number of establishments.

PUBLIC ADMINISTRATION AND FINANCE MATTERS

PURCHASE:

Kimberly Allen, Buyer, discussed the following (copy on file):

1. Ready Mix Concrete – Lee Redi Mix, Leesburg, GA
Estimated Exp. \$326,400.00

In reply to Mayor Pro Tem Postell, Interim Public Works Director Stacey Rowe explained that the concrete will not be used to build anything. It is an annual bid to have Redi Mix for repairs on roads, curb/gutter, utility cut, etc.; it is mixed concrete which is poured into holes.

Commissioner Fletcher noted that the bids were so close and asked the deciding factor when awarding a bid. Ms. Allen explained that Procurement goes with the low bid when that arises.

HURRICANE MICHAEL DEBRIS REMOVAL – CHEHAW

Mr. Davis explained that this is an effort to help Chehaw. FEMA had suggested that a Memorandum of Understanding between the City and Chehaw would allow cleanup of the debris. Chehaw would be reimbursed and will submit the reimbursement funds to the City.

In response to Mayor Pro Tem Postell, Mr. Davis explained that this is a separate agreement and only deals with cleanup of storm debris.

Ms. Subadan interjected that this will help Chehaw be ready for its Native American Festival. Cleanup began already, otherwise the grounds would not have been ready for the annual festival, which is this weekend. Mayor Hubbard asked if the City will receive the entire reimbursement amount from FEMA. Ms. Subadan replied that the City will apply, adding that the City was informed that all Category A (storm removal) will be reimbursed at 100%. The City has engaged Tetra Tech to manage this, but will only be reimbursed a percentage of that cost; it is a much smaller expenditure. In response to Mayor Hubbard, she stated that the City bears the entire cost of the cleanup and hopefully will be reimbursed for all costs related to that expense, adding that Chehaw is aware of the required documentation.

In response to Mayor Pro Tem Postell, Ms. Subadan explained that when Chehaw made its presentation a few months back, it was related to the ongoing agreement the City has with them. Today's item under discussion is specifically related to helping Chehaw with storm recovery.

Mayor Hubbard recognized William Wright, who had submitted a Speaker's Comment Form.

Mr. Wright distributed information, (copy on file) and cited the Federal code that is applicable to the issue of debris removal, adding that it requires minority business participation. Even though it's required, the City, nor Chehaw have a program of this type. Referring to page 2, he said that the

APRIL 9, 2019
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requirements were in effect when Albany was hit by the first storm in 2017 and reported that FEMA representative, Manny Tores, made contact with the Office of Inspector General, alleging that the City, Dougherty County and Ceres were not complying with the law. He cited another Federal code, which applies to the same issue, but is under the auspices of the Executive branch, while the other applies to independent agencies. He stated that it is fraudulent to misrepresent what the law requires and referenced trucks from as far away as China here making money that should be made by citizens living here and reiterated the need for a local minority program.

Mayor Pro Tem Postell referred to the handout and asked how the situation can be rectified. Mr. Wright stated that first, the City must have a program; otherwise it is circumventing federal law. He added that training and opportunities are also needed, adding that whomever is making these decisions must be held accountable. The information has been submitted and presented many times over the years, but to no avail.

Commissioner Marietta stated that the majority of people employed by Ceres and TetraTech, including those locally hired, are African-American. Projects were fairly bid, in which the companies agreed to hire minority subcontractors. Mr. Wright countered that the word ‘business’ is in boldface because it is understood that business owners will make the net assets, and help lift up the others. Employees of a business do not hire other employees.

Mayor Hubbard asked Mr. Davis to address Mr. Wright on his assertion that the City is breaking the law. Mr. Davis stated that he disagrees with Mr. Wright and that nothing like that is taking place. He reminded the Commission of recently adopting Federal rules/guidelines regarding hiring architects and engineers.

Ms. Subadan added that when the City has federally funded projects (Airport, Transit) the DBA requirement is clear, with the City abiding by those requirements. In contracts with Ceres and TetraTech, that requirement is pushed down to the contractor, and they follow FEMA requirements, with opportunities open and taken advantage of (by minorities). She stated that she has to object to comments made on the record that the City of Albany is not following the law; we do follow the law. Mr. Wright stated that if the Office of the Inspector General agrees, Albany has nothing to worry about. However, the language in the documents is clear in that it does not indicate employees, but rather ‘businesses’; business ownership drives America.

Mayor Pro Tem Postell again referred to the Federal cite, saying that he asked Mr. Wright for a solution, which he believes Mr. Wright provided. However, the City must follow rules and it has been in compliance; doing otherwise puts the City in a position of being sued. He added that he would like to see workshops, as mentioned in the information.

Mr. Wright stated that the company that employs him has conducted workshops that certifies DBE’s nationwide. Mayor Pro Tem Postell reiterated the City being sued if it does not comply with the law.

Mayor Hubbard stated that she believes the City has followed the letter and spirit of the law; the City’s attorney keeps the City in line with its practices, adding that certification requirements must be met and the City only hires the company; it does not do the hiring and firing of those employees.

Mr. Wright said that if the City is following the law, this can be put on the City's website by disclosing information. He suggested posting the 1099 of every business that meet requirements; Dougherty County was asked to do this and complied. He then mentioned Transit with Mayor Hubbard advising that Transit is not under discussion today. She acknowledged his statement that the City has not followed the law, with the City disputing those claims.

Commissioner Howard stated that he came in on the end of Mr. Wright's observations. Mr. Wright has come to the meetings for many years and has brought good data with him; it is well overdue for the City to look into his assertions, stating that he prefaces his comments with the statement that color has nothing to do with it. Based on the demographics of Albany (70% black, 5% minority and 22% white), some type of minority procurement policy should be implemented. He mentioned that Atlanta, Columbus, Macon, Savannah and Augusta have minority procurement programs, with it not being unconstitutional for them to have programs; Albany should also implement something to help small, minority, women-owned businesses and be inclusive.

Commissioner Fletcher mentioned that Commission packets are delivered in a timely manner to allow the Board time to review and prepare for meetings and that she feels that any additional material, such as the handout, should also be included. She suggested that when handed printed information right before the meeting, Commissioners are at a disadvantage; they have not reviewed the information and can offer no defense for themselves.

REDEVELOPMENT PLAN FOR 207 PINE AVE.

Jason Benedict stated that he is proposing a plan to redevelop 207 Pine Avenue, adding that he toured Albany approximately a year ago and found that 207 Pine was a great relic, with lots of history and a great opportunity for redevelopment. A test-fit study, as well as an economic study, were conducted, resulting in a program to be designed to rebuilt/relaunch the Hotel Gordon. Included in the proposal; an 88-room boutique hotel, which will be flagged/branded with a hotel reservation system that is well-known; a casual dining restaurant; and conference facility available to the community to use for various meetings/venues; expansion of the existing City data center, which will be used for commercial purposes. If the proposal is approved, the next stage - formal, architectural design and construction bidding process will follow.

Lequrica Gaskins, Downtown Manager, discussed information (copy on file) regarding the approval of the Redevelopment Plan, with a copy of the plan included in the Commission package, as well as a copy of the proposal and supporting documentation for the project. She reported that the Downtown Development Authority (DDA), held its meeting yesterday and voted unanimously to adopt the redevelopment plan. She briefly reviewed the financial benefits of this project; the funding sources with the request that Commissioners approve the DDA's recommendation of adopting the redevelopment plan as well as consider the \$3.0 million loan.

In response to Mayor Pro Tem Postell, Ms. Gaskins introduced herself and stated that all parties (the City, outside counsel and developer) involved have done their due diligence, by evaluating proposals, as well as researching the environment to ensure that this is a solid project. Mayor Pro Tem Postell asked if DDA approved this without any funds from the developer. Ms. Gaskins explained that the

DDA adopted the redevelopment plan at its meeting yesterday. Proposals were evaluated and the one received from J Car Development, LLC was very impressive. Mayor Pro Tem Postell briefly related problems the City has had, which have been rectified.

Ms. Subadan briefly reviewed the process of letting the bid to seek developers to redevelop 207 Pine, subsequent to the Utility Department relocating. The plan was always to redevelop the building into something more suitable than utilities. She mentioned her trip to Chicago last year to meet with a developer, J. Car, along with Mr. Benedict and his team. Extensive research on the developer was conducted and, they have a strong track record of success, in various business ventures and all facets of the development were researched by the City and developer. She mentioned that currently the second floor houses the City's data center and will stay there for the immediate future, with that floor being flushed out and made a state-of-the-art data center that the developer and his business will operate out of the facility. DDA has approved the project and recommends it for the City's consideration, but it cannot go forward until the Commission commits the funds for it. It is a \$13.0 million project and they are asking the City to loan them \$3.0 million out of the Downtown Redevelopment Fund, with additional funding needed to get this project going. The loan will be paid back over a period of 20 years at a nominal interest rate; however, it is higher than the current earned investment interest on those funds.

Mayor Pro Tem Postell stated that he is very familiar with the Gordon Hotel, adding that his father was an employee there. He asked the number of floors to be used. Mr. Benedict replied that there are four floors; the first floor will be the hotel reception area, second floor conference center with the other two floors being hotel rooms. In response to Mayor Pro Tem Postell, Mr. Benedict explained that the intent is to maintain the historic nature/design of the hotel. They have worked with a local architect for options on the design, which is the next stage.

Commissioner Howard referred to page 43, last bullet – developer may pursue a New Market Tax Credit (NMTC) funding, with any NMTC allocation, up to \$3.0 million, reducing the City loan amount and asked if this credit is similar to the one offered by DCA. Ms. Subadan explained that it works somewhat differently; DCA is for low-income housing, while this credit targets severely distressed census tracts with the goal to bring business. She mentioned that the jobs the developer will bring average \$50,000/annually. She briefly discussed Albany State University and the project working closely together because of the nature of business on the second floor and ASU being the only HBCU offering a block-chain and cybersecurity program. She mentioned New Market Tax Credits and bringing that funding source here, adding that it requires more research. If/when approved, that additional layer of research will be conducted to ensure that all funding sources are brought to the table. Commissioner Howard referred to the jobs created by this project, stating that he hopes local residents will secure a number of those jobs.

Mr. Benedict added that on the technology side the plan is to partner with ASU to create jobs for local students to hopefully, live here and work in that field.

In response to Mayor Hubbard, Mr. Benedict explained that once approved, the intention is to break ground this year, with the renovation process taking 12-16 months to complete. The second floor will be in operation within the next 90 days.

Commissioner Langstaff noted that one of the funding sources is EB5, which is very competitive and hard to obtain and asked what will replace it should it not be awarded. Mr. Benedict advised that they would replace it with additional qualified opportunity zone funds, which has been identified, adding that Mr. McCrae, outside counsel, feels that they are in a strong position to secure the EB5 funds, which are based on a foreign employee working in the U.S., paying fees to do so, with the fees being reinvested in local communities to create local jobs. If they are unable to obtain the full \$5.0 million needed to start the project, they will fill the gap with the qualified opportunity fund source, due to being in a qualified location. Commissioner Langstaff asked that the loan documents and MOU come back to the Commission for approval before execution by the City Manager, adding that he will propose amending the resolution to incorporate this in the motion. He suggested that an Intergovernmental Agreement between the City and DDA is needed to clearly spell out that the loan is from the Job Creation Fund being and when paid back, the principal and interest go back into that funding source. Ms. Subadan interjected that it will be incorporated in the MOU. Commissioner Langstaff clarified that DDA will also be a party to the MOU and will all be in one document operating as an IGA; Ms. Subadan agreed.

Mayor Hubbard recognized Mr. Wright to speak on this issue.

Mr. Wright distributed information (copy on file), stating that the \$3.0 million is public funds and should be means-tested, explaining that it needs to be delayed at least 30 days. He referred to the documents, saying that more time is needed to fully digest the information before putting citizens on the hook for 20 years. He referred to the Hilton Garden Hotel, saying this project is very similar in scope, alleging that this is ‘Enron accounting’, and enumerated the four factors in deciding to use public funds, with none of those safeguards in the agreement, as well as not complying with criteria in the Job Creation Fund policy. He suggested allowing the University of Wisconsin to review the agreement to determine the viability of it before approving the project.

Commissioner Fletched asked how the City is paying \$500,000. Ms. Subadan interjected that it is correct that the Hilton was subsidized in the beginning, with the Commission at that time, committing a lot of SPLOST funds also to the project. She said she pulled the information last week in preparation for this meeting and, this is a completely different project. Approximately five years ago, the Hilton loan was restructured and interest rate reduced with their payment completely being covered by the Hilton. She concurred that initially it was a significant investment; however, the Hilton does provide a significant economic impact. She advised that this will be a completely different deal; the \$3.0 million is a loan that will be repaid, there will be a security deed on the building and interest on the loan will be more than what the City receives on its restricted, allowable investments.

Mr. Wright said that he checked the records in Community and Economic Development, which shows that the City is still continuing to pay \$500,000 a year (on the Hilton). Ms. Subadan declared that that is not happening and he is factually incorrect.

Mayor Pro Tem Postell interjected that the City no longer has a use for the former utility building. The proposed development is positive action that will benefit the City and its citizens.

In response to Mayor Hubbard, Commissioner Langstaff stated that DDA voted on this Monday evening. Ms. Subadan added that an executive session was held two weeks ago to discuss.

Warren Grant (Albany resident) asked at what point the deed to the property will be transferred. Ms. Subadan explained the process, regarding the environmental grant and waiting on results, etc. Nothing was found in the Phase II environmental; the underground tanks to a service station were removed years ago with no contamination or environmental issues discovered. However, the building has lead-based paint and asbestos; the City applied for a grant for removal of both. If the City is awarded the grant, the cleanup would be complete before transferring the deed to the developer, sometime in the fall. The MOU/IGA will be brought back for Commission approval and will happen in advance of the closing and transferring the deed. Mr. Grant clarified that the deed will be transferred in the fall, with the developer paying \$100,000 for the building and deed transferred to him and asked if there will be a performance bond. Ms. Subadan discussed the claw-backs in the MOU, which will safeguard the City. Mr. Grant asked if a spreadsheet showing the return on investment was created. Ms. Subadan replied that it is in the packet, which is online. In reply to Mr. Grant, Ms. Subadan explained that should things fall through two years from now, the City is a subordinate lender, in second position on the security deed; it is a risk as with any time funds are loaned. However, the measures in place will protect the City and its monies.

CITY MANAGER'S UPDATE

Ms. Subadan reported: LED is 54% complete; last round of debris collection/pickup will be April 15, residents are encouraged to have everything pulled to the road. If there is still construction debris at this point, the contractor is responsible for picking it up; on the April 23rd agenda: re-servicing bid for expanding resurfacing/road improvement and sewer maintenance contract, which will have a draft contract for Commissioners to review, with the matter being pushed to the next meeting if the Commission decides to do so. She stated that in Executive Session at the last meeting, the Albany Transportation project was discussed, in which a written agreement was reached with the purchaser for the appraised value at \$1.42 million with the sale contract contingent upon development of the adjacent site.

Mayor Pro Tem Postell asked how far has the City moved toward downtown regarding the hotel. He referenced the funds the City received from MEAG and asked if the County is involved in the TAD. Ms. Subadan replied that Dougherty County and the School Board support the TAD and the additional taxes inside the Tax Allocation District are allocated to downtown. In response to Mayor Pro Tem Postell, she said that an update with specifics can be provided at a future meeting. Mayor Hubbard said that along with an update on the TAD, an update can be provided on the Job Investment funds.

OTHER BUSINESS/ITEMS FOR FUTURE AGENDA

Commissioner Fletcher noted that summer is around the corner and usually crime picks up at then. Being an election year, topics such as that give citizens fodder to talk about the Commission being tired

APRIL 9, 2019
COMMITTEE OF THE WHOLE
GOVT. CTR. – RM. 100

and ineffective. She asked that an update be provided, which compares Albany to surrounding cities/communities in how they are fighting crime, adding that she is fearful that the positive strides Albany has made will get lost in the politics of the election.

Commissioner Howard asked that Dwight Baker, HR Director, pull information on cities which have minority, women and small business office. He invited the Commission to the Criminal Justice Forum, at the LEC on April 11 at 6:00 p.m.

Commissioner Marietta asked to be updated on what is being done to recruit/retain more public safety officers (police and fire). He stated that the public wants more police officers on the street and for them to have the best equipment/pay.

There being no further business, Mayor Hubbard adjourned the meeting at 9:56 a.m.

SISSY KELLY
ASST. CITY CLERK