

MARCH 23, 2010

REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF
ALBANY, GEORGIA

PRESENT: Mayor Willie Adams, Jr.
Mayor Pro Tem Christopher Pike
City Commissioners: Jon Howard, Dorothy Hubbard, Roger Marietta,
Bob Langstaff, Jr., and Tommie Postell
City Manager: Alfred Lott
City Attorney: Nathan Davis

Mayor Adams called the meeting to order at 8:07 p.m.

Associate Pastor Don Sanders, New Life of Albany gave the invocation and the pledge of allegiance was recited.

Commissioner Hubbard moved to approve the minutes of the previous meeting, seconded by Commissioner Postell, the motion unanimously carried.

CITIZEN APPEARANCE

Harry Prisant stated that he is Fleet Manager of Sunbelt Ford Town of Albany and that he has been placing fleet bids for 15 years, for the local Ford dealerships and has sold the City a number of vehicles. He said they have had a good working relationship over the years and that he is present tonight to discuss the award of bids to Allan Vigil from Morrow, Georgia. He commented on bids he lost in prior years and discussed the reciprocity clause and asked if it is the fairest and best. He stated that he is prepared to match the price to benefit their business and the City; the vehicles will be received faster and will not be trucked in. He asked to keep the jobs and money in town, a win-win for everyone. He commented on the economic impact of the dealership as being approximately \$2.0 million, employing approximately 55 people and that they have 20% minority participation.

Mayor Pro Tem Pike asked Mr. Prisant if Ford Town of Albany has bid outside of Albany and won the bid. Mr. Prisant stated that they have. Mayor Pro Tem Pike asked if their bid fell under the reciprocity clause. Mr. Prisant stated that he has bid where there was local preference, but he does not know of another city with the reciprocity clause.

Commissioner Marietta asked Mr. Davis if in the future to give local preference, without indication of reciprocity, that the current reciprocity ordinance needs to be repealed. Mr. Davis advised that the ordinance would not have to be repealed, but the Commission will have to adopt a local preference ordinance. Commissioner Marietta mentioned the School Board. Mr. Davis stated that the City does not have what the School Board has.

Discussion followed with Mr. Prisant stating his case of the bidding process, suggesting that the reciprocity clause does not hold water.

Commissioner Hubbard clarified with Mr. Davis that if the Commission changes -it is illegal to accept the bid of the local bidder – showing preference. Mr. Davis agreed, stating that there is no ordinance allowing local preference. Mr. Prisant asked about local service and stated that he could have the cars delivered quicker, the cars would not have to be trucked and he is selling them for the same price. He asked the Commission to support local people and keep local jobs. Mayor Adams stated that Ford Town is being awarded over \$250,000 in business tonight as listed on the agenda. Mr. Prisant stated that he wants it all as there is no money to be made off of fleet bids. Mayor Adams told Mr. Prisant that what he is asking cannot be done because City Attorney Davis stated that it is illegal.

Commissioner Langstaff stated that Ford Town is getting the bid on 14 cars and that the other bid from Allan Vigil will include their having to truck the cars to Albany. He asked Mr. Prisant the estimated cost to haul 11 cars. Mr. Prisant stated that it would cost approximately \$150.00 per car. Commissioner Langstaff said that Ford Town bid was a couple of hundred dollars higher than Allan Vigil and they are paying \$150 per car and they still out bid him.

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Commissioner Postell stated that the legality of the process will have to be studied to make any changes to accommodate local businesses.

PUBLIC HEARINGS

1. Zoning Case #10-003 – Janet Woodward/Owner; Terry Thomas and Kurt Jurado/Applicant; request to rezone property located at 1906 N. Slappey Blvd., from C-2 to C-3. PC approved 8-0 **conditional** – WARD 2

Using PowerPoint, Mary Teter, Sr. Planner, showed the property's location on a map and a map of surrounding property, advising that the request is to allow for a 150' cell tower, which is the maximum height permitted in the C-3 District. She showed surrounding zoning and discussed the land use map and advised that the Planning Commission recommends rezoning to C-2 with the following conditions: 1) The tower compound must be fenced and screened with an evergreen hedge which shall be a minimum of 5' in height within three years and 2) the following uses are not permitted: trucking and warehousing, mobile home sales, outside storage in excess of 1,000 sq. ft. and motor vehicle repair centers/body shops.

Commissioner Postell asked if this is the same tower that was discussed previously in E. Albany. Howard Brown, Planning Director, stated that this is a separate application. Commissioner Postell asked the purpose of this tower. Ms. Teter stated that it will provide coverage along the Slappey Blvd. area. Commissioner Postell asked if this will connect to Palmyra Hospital to produce images for the hospital. Ms. Teter stated that she has no knowledge of this.

Terry Thomas, Applicant and representative of AT&T, advised that the tower is designed to allow two other cell companies to connect and there is a need to have more towers in the area due to gaps and complaints to AT&T. Commissioner Postell asked if putting a tower in the area will inhibit or enhance cable. Mr. Thompson stated that the towers will not inhibit broadcasting coverage in the area. He added that they were required to study the area and other licensees to prove that they would not interfere.

Mayor Adams commented on the pole and asked its height. Mr. Thomas stated it is a monopole that is similar to other poles in the area; galvanized steel. Mayor Adams mentioned having the poles blend into the environment and asked if this will blend. Mr. Thomas stated that the pole fits in with the other poles in the area.

Commissioner Marietta expressed concern on the pole being 150' in height, adding that he does not think there are other poles that tall in the area. He asked staff if there are other 150' poles within the city. Ms. Teter advised that 150' is the maximum height in the C-3 district; the pole on 7th Ave., is 150'; the tower on Meredyth Drive is 150' and the one across from Village Green Shopping Center is 150'. She added that the county has higher poles averaging 195'.

Mayor Adams asked about markings for aircrafts. Mr. Thomas advised that this tower is not required to be lit and that they have an FAA acknowledgement and approval for the site. He added that the towers to the north and south are 150' in height.

Commissioner Langstaff asked the distance from Slappey Blvd. to the pole. Mr. Thomas stated that it is 207' from Slappey Blvd., with the fall radius being 50'.

Commissioner Hubbard asked if the people in the area were notified. Ms. Teter stated that letters were sent to the abutting property owners and those she heard from did not raise any concerns. Commissioner Hubbard asked if these were the owners or the occupants of the properties. Ms. Teter advised that notices were sent to the owners as listed in the tax department records. Commissioner Hubbard asked Mr. Davis if this is a situation where the city has no FAA controls. Mr. Davis agreed and advised that the FAA requires substantial evidence to deny the application. He briefly discussed the process to include a package of items to objectively show substantial evidence, etc.

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Mayor Adams asked if, once the tower is erected, the property owner will be compensated for having the tower on the property. Mr. Thomas advised that they have a ground lease with the owner of the property. Mayor Adams asked if additional people attach to the tower revenue is generated. Mr. Thomas explained the ground lease in place, future rents, and the deal that was made.

2. Zoning Case #10-006 – Bonnie Sharp/Owner; Beverly Espy/Applicant; request to rezone property located at 2112 Palmyra Rd., from C-1 to C-2 PC approved 8-0 **conditional** – WARD 2

Using the power point presentation, Ms. Teter showed the map of the location of the property and advised that the purpose is to rezone to allow for development of a pharmacy. She showed the land use map, surrounding zoning and advised that the Planning Commission recommends approval with the following conditions: the following uses are permitted: 1) Pharmacy with a drive through window, offices of any type, personal and office support services and restaurants and retail sales (except motorized vehicles and parts and manufacturing or farm equipment) not to exceed 8,000 sq. ft. of floor area; 2) a solid privacy fence, minimum 6' in height shall be located at the rear of the property line which adjoins the alley. Evergreen trees a minimum 6' in height at planting shall be planted and maintained inside the privacy fence. Required fencing and evergreen tree buffer must be shown on a site plan and approved by planning staff prior to issuance of a certificate of occupancy; 3) outdoor lighting will be directed away from adjoining residential property to the northeast.

Commissioner Marietta asked if there is a limit to how many pawn shops can be located within the City of Albany. Mr. Brown stated that there are no regulations. Ms. Teter advised that this is a pharmacy.

Commissioner Hubbard asked the difference in the buffering. Ms. Teter stated that the zoning ordinance has different requirements for cell tower screening which is 5' in height within three years.

There was no one present desiring to speak in favor of or in opposition to this application.

3. Zoning Case #10-007 – Eugene and James Cline/Owners; SOWEGA Autism Resources, Inc./Applicant; request to rezone property located at 1509 W. 3rd Ave., from C-5c to C-5c PC approved 8-0 **conditional** – WARD 3

Using the power point presentation, Ms. Teter showed the property location on the map and advised that the rezoning request is to operate a private school at the location; the current condition on the property will not allow for the use, which is the reason to amend the conditions on the C-5c. She explained that currently the property is zoned with conditions limiting to office/single family residential but the applicant desires to have a private school with no more than 15 children.

In reply to Commissioner Postell, Mr. Brown advised that Georgia law requires that any change in the conditions go back to the Commission to approve the changes. In reply to Commissioner Postell, Ms. Teter advised that the school will be for autistic children; they have five children currently and would like to increase to 15 in the future.

Continuing with the presentation, Ms. Teter advised that the Planning Commission recommends conditional approval as follows: 1) Amend the zoning conditions to allow for use of a private school at 1509 W. Third Ave., and 2) no more than 15 children will be served onsite by the school.

There was no one present desiring to speak in favor of or in opposition to this application.

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4. Zoning Case #10-021 – Richard Boyd, Owner/Applicant; request to rezone property located at 911 N. Slappey Blvd., from C-1 to C-2. (PC approved 7-0) WARD 3

Using a power point presentation, Ms. Teter showed a map of the location, surrounding zoning and advised that the request is to rezone to allow for used car sales at the site. She showed the land use map and stated that the Planning Commission recommends approval of the application.

There was no one present desiring to speak in favor of or in opposition to this application.

5. Zoning Case #10-024 – Grove Park, Inc./Owner; Bright Meyers Albany Assoc., L.P./Applicant; request to rezone property located on the SW Intersection of Clark Ave., and N. Cherokee Dr., from C-7 to C-3. (PC approved 7-0 WARD 1)

Using a power point presentation, Ms. Teter showed a map of the location, surrounding zoning and advised that the request is to rezone so that the Wal-Mart site will be under the same C-3 zoning classification. She stated that the Planning Commission recommends approval.

In reply to Mayor Adams, she again showed the location on the map and advised that the rezoning will allow the Wal-Mart site to be under the same zoning classification.

There was no one present desiring to speak in favor of or in opposition to this application.

6. Zoning Case #10-026 – William White/Owner; Wayne Bruce/Applicant; request to rezone property located at 1009 Radium Springs Rd., from C-5, C-3 and FH to C-3. (PC approved 9-0 WARD 6)

Using a power point presentation, Ms. Teter showed a map of the location, surrounding zoning and advised that the request is to rezone to allow the placement of a 150' cell tower, which is the maximum height permitted in a C-3 District. She stated that the applicant requested a waiver to the landscape requirement for the tower compound since it is not visible from Radium Springs Road and there are tree buffers; however, the Planning Commission's recommends approval to rezone to C-3, but to deny the request to waive the landscape requirements.

In reply to Mayor Adams on the owner of the tower, Ms. Teter advised that it is Pyramid Towers. Mr. Brown stated that this company erects telecommunication towers and advised that the applicant is present. In reply to Mayor Adams, Ms. Teter stated that the applicant represents AT&T and that he searches for sites.

Wayne Bruce stated that he works for Pyramid Network Services, which is hired by American Tower, and is the company that he represents. He explained that American Tower will build the tower to accommodate AT&T.

Mayor Adams asked who is held accountable for tax revenues that are generated. Mr. Bruce stated American Tower. He advised that the corporate office is in Boston, MA, with a regional office in Atlanta.

Commissioner Postell stated that this is in his ward and expressed interest in where another AT&T tower is located in E. Albany. Mr. Bruce distributed information (copy on file) showing the coverage in that area. Commissioner Postell asked if the tower will interfere with Mediacom and the signals. Mr. Bruce explained that the FCC regulates this and problems should be addressed to FCC. Commissioner Postell asked if this company will put a tower at Chehaw Park. Mr. Bruce and Mr. Brown both stated that they have no knowledge of this. Commissioner Postell discussed the proposed tower at Chehaw Park and the denial of this by the Chehaw Board. He asked if there are any plans for another business to move into White's Seafood building. Ms. Teter said she has

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no knowledge of that. Commissioner Postell asked how many towers the City of Albany owns/operates. Stephen Collier, Central Services Director, stated that the City owns two, one in the east and one in west Albany. Commissioner Postell asked Mr. Collier if these towers will interfere with public safety towers for emergencies. Mr. Collier stated no; they just went through a re-banning process due to federal mandates. Commissioner Postell stated that he agrees with the denial of the landscape waiver and asked Mr. Bruce if they can live with this. Mr. Bruce replied in the affirmative.

Mayor Adams expressed concern on the look of the pole and making it more natural to blend in with the neighborhood. Mr. Bruce advised that it can be painted a different color. Mayor Adams asked that consideration be given to this so that it will not stand out. Mr. Bruce stated that this will be discussed with American Tower to see if they will be willing to paint the tower.

Commissioner Hubbard asked the advantage of Mr. Bruce representing AT&T and AT&T representing themselves. Mr. Bruce stated that AT&T provides communications services and his company provides telecom services, i.e., real estate services and finding people willing to locate towers on their property, which is different from the communications aspect. Mayor Adams suggested that they can be referred to as a sub-contractor. Mr. Bruce agreed.

Commissioner Howard asked if the tower is damaged by wind, how many feet is it from the restaurant (White's Seafood). Mr. Bruce explained that the base sits 50-60' from the backside of Mr. White's building. Ms. Teter advised that the requirement is 39'.

There was no one present desiring to speak in favor of or in opposition to this application.

7. Special Approval Case #10-008 – Eugene and James Cline/Owners; SOWEGA Autism Resources, Inc./Applicant; request to allow the operation of a school of autism in the C-5c District at property located at 1509 3rd Ave. PC 8-0 approved **conditional** – WARD 3

Ms. Teter used a power point presentation to show the location of property and surrounding zoning, advising that this goes along with the previous zoning case. She explained that special approval is required for private schools and that the Planning Commission approved with the condition that no more than 15 children will be served by the school.

Commissioner Postell asked the capacity of the building at the location – 1509 3rd Ave., and whether they can accommodate 15 children. Ms. Teter explained that the applicant will have to get approval from the State regulating agency for private schools; however, they projected that they can accommodate 15. In reply to Commissioner Postell, Ms. Teter clarified that the rezoning is required and special approval is required by the Commission for private schools, which is why there were two applications for the same applicant. Commissioner Postell asked who is financing - the owners Eugene and James Cline or another agency. Ms. Teter stated that the Clines own the property and will sell the property to the applicant if the special approval goes through. In reply to Commissioner Postell, she advised that the applicant is SOWEGA Autism Resources, Inc., and that the applicant is present.

Diane Blocker stated that she is the President of the Corporation of SOWEGA Autism Resources. Commissioner Postell asked how many people work under her. Ms. Blocker advised that there are three and that they have a Board of Directors.

Mayor Adams asked if the Dougherty County School System has a program to address autistic students. Discussion followed with Ms. Blocker commenting on DCSS's Exceptional Student Program the prevalence of autism, the number of autistic children in the area and work that she does with the School System. Mayor Adams mentioned recruitment at the hospital with people relocating due to there being no agencies to assist

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with their autistic children. He asked Ms. Blocker to consider what the City can do to assist.

There was no one else present desiring to speak in favor of or in opposition to this application.

8. Special Approval Case #10-017 – Robert N. Brooks, Owner/Applicant request to allow property to be used as a church in the C-3 Commercial Dist., at 1508 W. Broad Ave., (PC approved 9-0 WARD 3)

Ms. Teter used the power point presentation to locate the property on a map and surrounding zoning, advising that the request is to allow the property to be used as a church, with the Planning Commission recommending approval.

Commissioner Postell asked Mr. Davis for the stipulation of what constitutes a church. Mr. Davis advised that there is a definition. In reply to Commissioner Postell, Ms. Teter explained that the requirements are to have an acre of property, on an arterial collector street with parking to the side of the building. Discussion followed with Commissioner Postell asking the amount of parking in the lot. Ms. Teter advised that there are 75 off-street parking spaces.

Commissioner Hubbard asked if a bar is near. Ms. Teter stated that she is unaware of that. Mayor Pro Tem Pike stated that it is down and across the street.

There was no one present desiring to speak in favor of or in opposition to this application.

9. Special Approval Case #10-022 – Chick-fil-A, Inc./Owner; David Millican/Applicant; request to allow a building addition to property in the C-7 Dist., located at 2703 Dawson Rd. (PC approved 9-0 WARD 5)

Ms. Teter used the power point presentation to locate the property on a map and surrounding zoning, advising that the request is to construct an additional building, which requires special approval. She stated that the Planning Commission recommends approval.

There was no one present desiring to speak in favor of or in opposition to this application.

10. Amending Zoning Ordinance re: Fences and Walls

Mr. Brown stated that in January 2009, the City Commission adopted fence regulations for the City of Albany and one of the key items was the prohibition of chain link fences in front yards; fences that are not chain link are permitted in front yards. He advised that this resulted in the need to amend the ordinance to prohibit and prevent several types of undesirable metal fences in front yards, i.e., fences made of junk, tires, garage doors, tin, aluminum, etc.

Commissioner Postell discussed amending the ordinance on fences, asking if this will cover having a gauge wire in order to prevent violating a person's right to have a fence in the front yard. He suggested amending the ordinance to eliminate the problem and having regulations in place for the City of Albany. He discussed the various fences that can be put in place in Albany and asked Mr. Brown what type wires can be permitted in certain communities that can be regulated in the City of Albany. Mr. Brown stated that he can create a list of what is not acceptable and work from there. Commissioner Postell suggested tabling this until a recommendation is brought back and asked Mr. Davis about enforcing the ordinance and if the city would be in violation. Mr. Davis agreed with Mr. Brown that the ordinance can be amended to provide more detail.

Mayor Adams commented on discussions concerning the neighborhood covenants that would govern this. He expressed concern on changing/amending ordinances to accommodate various situations and asked if the neighborhood had an organization of

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this nature. Commissioner Langstaff stated that there is not a homeowners association and discussed the covenant that was filed with the Clerk of Court, time frame of the covenants and whether or not they are being renewed (prior to 1996 not being automatically renewed which is a problem for neighborhoods established prior to 1996). He stated that covenants enforcement would require citizens to hire an attorney rather than government enforcement and an ordinance on the particular issue. He commented on what the ordinance proposed change allows, i.e., not being more than 4' in height, constructed from brick, stone, rough iron, etc., but not constructed from exposed concrete block, tires, junk, etc. The current ordinance mentions specifically chain links and the proposed ordinance expands the definition of what is/is not permissible. He added that the City Attorney stated that people with fences already up will be grandfathered in. In reply to Mayor Adams on what will prevent going back and adding verbiage, Commissioner Langstaff stated that it is like other ordinances, e.g., work in progress. He used the scheduled drug lists of illegal drugs as an example of laws being updated to address current concerns.

Commissioner Marietta noted paragraph four of the proposed ordinance, which allows certain fences in front yards and said there are yards in Lake Loretta with vinyl fences in the front yard, which will be grandfathered in, but not allowed. He agreed that the ordinance needed to be amended.

Mayor Pro Tem Pike agreed with the ordinance with the exception of banning chain link fence as most wards, especially wards 3 and 6, have chain link fences in their yards. He agreed that farming wire should not be allowed; however he said chain link fence is not logical to him considering how many properties in the city already have chain link fences. Mayor Adams agreed adding that he lives in the NW area of town, but in the East and South side of town there are a lot of chain link fences that are used for protection. He agreed that what applies to the north side of town may not apply to the south side of town.

Commissioner Langstaff stated that as of January 2009, only chain link fencing is regulated and if nothing is done, this will be the only one prohibited.

Commissioner Hubbard agreed with Mayor Pro Tem Pike and stated that she has neighbors with chain link fences in their yards. She said the photos show an ugly fence and there appears to be animosity among the neighbors with no communication among them.

Commissioner Postell stated that he is not opposed to fences and again suggested that Mr. Brown tweak the ordinance and bring back a recommendation so that the Commissioners and citizens can understand. He said he does not think there are enough code enforcers to enforce the laws and that there could be a violation of rights.

William Lucas, 3406 Forrest Ridge Drive, spoke in opposition, advising that he built his house in 1990 and that they like the quiet neighborhood. He asked the Commission to reconsider the vote last week to deny the proposed changes to the ordinance. He accused his neighbor, Mr. Fajardo of willfully installing a fence after being told by the Planning Commission that it was in violation of existing code for a front yard. He said many residents own dogs and fence their back yards for their dogs to run and play and not threaten people who walk on the street. He stated that Mr. Fajardo contends that he needs a front yard fence because the two German Sheppard dogs he owns are confined to chain linked backyards. He commented on the photos (copy on file) and said they feel their property value will diminish due to the eyesore of the home at 3404 Forrest Ridge portrays through the assortment of wire fencing. He said the decreased property values will negatively affect the sale and resale of homes in the subdivision; the City will suffer a decrease in revenues due to their homes losing property values and lowering the tax digest. He also suggested new comers to Albany will question the safety of the neighborhood when seeing blighted property and added that the neighborhood park loses its attraction for parents as a safe place for children to play. Regarding aesthetics, he stated that the fence does not improve the appearance of the neighborhood and gives the

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impressions of a declining and unfriendly community to be avoided. He said that he and the neighbors request the Commission to strengthen the existing fencing ordinance by passing changes proposed by the Planning Commission.

Mayor Adams mentioned the comment that the fence was put up illegally and asked why Code Enforcement did not handle this. Mr. Lucas stated that Mr. Fajardo received a notice of violation. In reply to Mayor Adams, Mr. Lott clarified that Mr. Fajardo installed a chain link fence and was cited for that. Once he was cited, Mr. Fajardo put up a chicken wire fence because there was no restriction on that type fencing, which is the reason for the legislation being submitted.

Mr. Lucas suggested that it is a 'spite' fence and referenced the photos of panels two feet off of the ground, which could not be considered a privacy fence. Mayor Adams asked if anyone in the community has tried to communicate with Mr. Fajardo. Mr. Lucas stated that Mr. Fajardo will not communicate back with anyone – he turns away. He said he has been in Albany for almost 25 years and would like to retire here.

Raymond Fajardo stated that only one neighbor asked him what is going on, and that was today. He explained that the first time he put up the fence, he did not know it was illegal to have a chain link fence in his front yard and Chief Norman visited him on a Saturday advising him that it was against code to have the chain link fence in the front yard. A citation was issued and he is scheduled to appear in court on Thursday to show that he complied by taking down the chain link fence. He stated that the vinyl chain link fence he chose cost 10-20% more than a regular galvanized chain link fence. He said he is also concerned about his property value and that this is the first home he has purchased. He asked to have his vinyl chain link fence. In reply to Mr. Lott on why the other fencing was put up, Mr. Fajardo stated that he put the chicken wire up to prove a point as it is his right to let his dogs run in the front and back yard. He commented on the dogs Mr. Lucas has and said they are Jack Russell Terriers and can be exercised in a 10x10 Kennel. He said he has two German Sheppard dogs, one being almost 90 lbs and it is practicable for him and his dogs to have the extra space for them to run. He said the only issue he has with the proposed amendment is to recognize on item #4 that vinyl chain link fence is recognized as ornamental/decorative.

In reply to Mayor Adams, Mr. Fajardo stated that he has a right to have dogs. Discussion followed with Mayor Adams and Mr. Fajardo discussing being good neighbors. Mr. Fajardo stated that one neighbor did approach him about the covenants, which are no longer valid. In reply to Mayor Adams, Mr. Fajardo stated that if asked, he will replace the chicken wire for his vinyl chain link fence. Mr. Lott advised that the chain link fence is illegal according to the current ordinance and would be unauthorized. In reply to Mayor Adams, Mr. Fajardo stated that he is in the trucking business and he drives tractor trucks. Mayor Adams asked Mr. Fajardo how long he has lived in the neighborhood. Mr. Fajardo replied since March 2006 and that before coming to Albany he lived in the Atlanta area. He stated again that he wanted the vinyl fencing to increase his property value. Mayor Adams asked where the truck is parked. Mr. Fajardo stated that it is currently at the dealer and that he has a spot reserved at a storage place to be parked when he is not on the road.

Commissioner Langstaff asked Mayor Adams if he would ask if there were any other persons present desiring to speak to this matter.

Aubrey Singleton stated that he lives next door to Mr. Fajardo and that the neighbors have not been communicating; however, he said he communicated with Mr. Fajardo today and that he stopped and asked Mr. Fajardo what is going on and was told by Mr. Fajardo that he wants a chain link fence, but there is an ordinance against it. He also said this is a spiteful fence that was put up. He said the ordinance was put in place to protect property owners, but it was loosely written and suggested the ordinance say what can/cannot be used and that it be enforced.

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Discussion followed with Mayor Adams asking Mr. Fajardo whether he wants to be a good neighbor and if he sees a way to compromise. Mr. Fajardo stated that he agrees with Commissioner Postell in his right to put up a chain-link fence. He commented on chain-link fences in the northwest part of the city including in the Doublegate Country Club area and stated that he has a right to put up a fence and that he does want to be a good neighbor. Mayor Adams stated that he lives in the Brentwood area and that the neighbors look out for each other when they are out of town. He asked Mr. Fajardo if he would feel comfortable if something was taking place at his home that his next-door neighbor would look out. Mr. Fajardo stated that he has no doubt that the Lucas' family will look out.

Cheryl Lucas stated that 1) Mr. Fajardo said no one spoke to him, but her brother observed what was going on and spoke to Mr. Fajardo, but he would not answer him, and 2) Mr. Fajardo's dogs hardly ever come out of the house. She mentioned other homes in the neighborhood without fences in the front yard and said that they have lived in the neighborhood for years with the neighborhood not being built with this intent.

Commissioner Marietta commented on the draft ordinance and allowing fencing to be made from wrought iron, brick, stone, wood stuccos or split rail and asked Ms. Lucas how she would feel about this. Mr. Lucas stated that something that will improve the neighborhood would not be an issue and that there are neighbors with other fences; however, this fence does not fit the design.

Larry McCloud, 3408 Forrest Ridge Dr., stated that Mr. Fajardo is in violation of the code, has been cited, and the fence needs to come down. He said he has no objection of a fence being put up as long as it is within code. The issue is will the Commission change the ordinance and amend it so that if there is a fence in the front yard it will be ornamental in nature and not be 5' as the fence Mr. Fajardo put up, which does not look appealing. He asked that the ordinance to be put into effect and that it is enforced. Mayor Adams stated that there is no objection to a fence as long as it is an appropriate fence. Mr. McCloud agreed, adding as long as it is within code and chain link was in violation of the code when it was installed. Mr. Fajardo stated that if he was in violation he was not aware until Chief Norman came to his house. He said he wants to be a good neighbor, but would like to have his vinyl fence part of the amendment as being ornamental/decorative and that it be recognized as such.

Mr. Brown stated that the variance that was applied for was for the height and not the type of fence. Mr. Fajardo gave a reason for applying for the variance. Mr. McCloud stated that chain link is in violation of the code as of 2009.

Mr. Lucas stated that he spoke with Mike Tilson in November and he understood that Mr. Fajardo contacted Planning Commission prior to installing the fence and that there is a documented phone call of Mr. Fajardo's phone call whereby he was told that he could not put it up or he would be in violation of the code. He stated that Mr. Fajardo put the fence up by October 31, Code issued a violation and Mr. Tilson stated that Mr. Fajardo alleged that if he was forced to take down the chain link fence, he would put up wire fencing, which the neighborhood opposes as it is detrimental to their property.

Mayor Pro Tem Pike stated that if the ordinance is adopted today, Mr. Fajardo will still be able to keep up the fencing he has in place. Mr. Davis agreed. Mayor Pro Tem Pike stated that this will not prevent the wire fencing. Mr. Lott added that it will prevent any add-ons. Mayor Adams agreed and asked how do they get the offensive fence down – either Mr. Fajardo has to volunteer to take it down or the Commission has to demand that it be removed.

Mr. Lucas mentioned the settlement of the code violation that has to be settled. Mr. Fajardo stated that the violation pertains to chain link fencing.

Mayor Pro Tem Pike stated that the Commission cannot make Mr. Fajardo take down the fence because he is not in violation of the ordinance. Mr. Lucas stated that the front yard

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chain link fence is in violation. Mayor Pro Tem Pike stated that the Commission cannot prevent Mr. Fajardo from putting up chicken wire. Mr. Lucas stated that this will be taken to a higher level and that it is unfortunate that the Commission was shortsighted in passing the first ordinance.

Mayor Adams and Commissioner Hubbard stated that they had no idea anyone would put up chicken wire. Mayor Adams asked about the covenant. Mr. Lucas stated that a copy was given to Commissioner Langstaff.

Commissioner Postell stated that he also has a chain link fence and that they are throughout the city. When the ordinance was written, no particular area was in mind to eliminate chain link fencing. He suggested the situation is between two neighbors and the way it can be settled is for Mr. Brown to take this draft ordinance, evaluate it and see if the neighbors can be satisfied. He commented on the covenant being expired and no longer effective. Mr. Lucas stated that there was a renewal provision to self-renew for ten year increments after the first 30 years. Commissioner Postell asked Mr. Lucas what would be the objection if the Commission allowed Mr. Fajardo to put up a decorative chain link fence. Mr. Lucas said he would have to consult with the neighbors. He again suggested tabling to see if something can be worked out with both neighbors and for Mr. Brown to make a recommendation to the Commission for a vote.

Commissioner Langstaff clarified that 1) there is the covenant disagreement on whether or not it was renewed and this may have to be settled in court, and 2) nothing can be done tonight regarding this issue as Mr. Fajardo will be grandfathered in. He referenced the photos and the chain link that is in place that runs to the side of the property and not in the front. Mr. Fajardo stated that the cattle gate has been removed. Commissioner Langstaff explained that if the ordinance is passed tonight, it will prevent any more chicken wire, etc., going up at this location or any other location within the city. He suggested that it could be tweaked next month, but at least undesirable wire will not be installed.

Mayor Pro Tem Pike suggested placing a moratorium on fencing, as discussed in the briefing, to allow Mr. Brown to revisit the draft ordinance for the Commission to review at a later date as nothing can be solved tonight.

Commissioner Langstaff stated that they do not know the legality of the moratorium on fences. Mr. Davis stated that tonight's meeting was not advertised as a moratorium on fences.

Commissioner Postell suggested tabling to move forward.

Mr. Fajardo asked that the vinyl chain link be approved. Commissioner Postell told Mr. Fajardo that he has to deal with Mr. Brown.

Mayor Adams adjourned the public hearing portion of the meeting.

REPORT OF COMMITTEE OF THE WHOLE

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

1. Duttatrey, Inc., d/b/a AJAX Liquor Store; 1301 E. Broad Ave., transfer beer package, wine and liquor retail license to D. Patel
2. Duttatrey, Inc., d/b/a Applejax Sports Bar & Lounge; 1303 E. Broad Ave., transfer consumption license to D. Patel

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

1. Coaches Corner, 2530 Stuart Ave., S. Daniel, Agent; consumption

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

1. St. Teresa's Catholic School, J. A. Meier, Agent; Funding raising activities, Glover Dental Corp., Center; 2824 Gillionville, Rd., Saturday, April 17, 2010, 6:00-11:59 p.m.
2. Albany Community Chorus, d/b/a The Albany Chorale, B. Smith, Agent; Fundraiser, Theatre Albany, 514 Pine Ave., Saturday, April 10, 2010 7:00-10:00 p.m.

Mayor Pro Tem Pike moved to consider granting special approval to the following application, seconded by Commissioner Langstaff; the motion unanimously carried.

1. Special Approval Case #10-008 – Eugene and James Cline/Owners; SOWEGA Autism Resources, Inc./Applicant; request to allow the operation of a school of autism in the C-5c District at property located at 1509 3rd Ave. PC 8-0 approved **conditional** – WARD 3

Mayor Pro Tem Pike moved to consider granting special approval to the following application, seconded by Commissioner Hubbard; the motion unanimously carried.

2. Special Approval Case #10-017 – Robert N. Brooks, Owner/Applicant request to allow property to be used as a church in the C-3 Commercial Dist., at property located at 1508 W. Broad Ave., (PC approved 9-0 WARD 3)

Commissioner Langstaff moved to consider granting special approval to the following application, seconded by Commissioner Hubbard; the motion unanimously carried.

3. Special Approval Case #10-022 – Chick-fil-A, Inc./Owner; David Millican/Applicant; request to allow a building addition to property in the C-7 Dist., to property located at 2703 Dawson Rd. (PC approved 9-0 WARD 5)

Following the recommendation of the Committee of the Whole Commissioner Langstaff, moved to approve the following current bid seconded by Commissioner Marietta; the motion unanimously carried

1. Vehicle Purchases (11); Allan Vigil Ford, Morrow, GA

| | |
|-------------------|--------------|
| Total expenditure | \$240,009.00 |
|-------------------|--------------|

ORDINANCES

Commissioner Hubbard introduced

AN ORDINANCE NO. 10-109

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 1906 N. Slappey from C-2 to C-3 (conditional)

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Commissioner Hubbard then offered the ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption, seconded by Mayor Pro Tem Pike; the motion unanimously carried.

Commissioner Hubbard introduced

AN ORDINANCE NO. 10-110

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 2112 Palmyra Rd., from C-1 to C-2 (conditional)

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

Mayor Pro Tem Pike introduced

AN ORDINANCE NO. 10-111

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 1509 W. Third Ave., from C-5 (conditional) to C-5 (conditional)

Mayor Pro Tem Pike then offered the ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption, seconded by Commissioner Hubbard; the motion unanimously carried.

Commissioner Postell introduced

AN ORDINANCE NO. 10-112

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 911 N. Slappey Blvd., from C-1 to C-2

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 Hubbard; the motion carried 6-1 with Commissioner Langstaff voting no.

Commissioner Postell introduced

AN ORDINANCE NO. 10-113

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at SW Intersection of Clark Ave., and N. Cherokee Dr., from C-7 to C-3

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 Postell introduced

AN ORDINANCE NO. 10-114

Amending the Zoning Ordinance and Map of the City to Albany to change the status of property located at 1009 Radium Springs Rd., from C-5, C-3 and FH to C-3.

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.

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Commissioner Langstaff introduced

AN ORDINANCE NO. 10-115

Amending the City of Albany's Zoning Ordinance to provide for Walls and Fences

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 Marietta.

Commissioner Postell suggested tabling this item and let Mr. Brown come back with a recommendation.

Discussion followed with Commissioner Howard asking about a substitute motion. Commissioner Postell moved a substitute motion to table until Mr. Brown gets with the neighbors to settle the problem, seconded by Commissioner Howard; the motion failed 2-5 with Mayor Adams, Mayor Pro Tem Pike, Commissioners Hubbard, Marietta and Langstaff voting no.

Mayor Pro Tem Pike stated that he has no problem with the substitute motion; however, he said he does not want people to put up chicken wire, which is why he does not want it tabled.

Commissioner Marietta agreed with making changes suggested by Mr. Brown as noted in the draft ordinance.

Commissioner Postell stated that Mr. Brown's suggestion does not rectify what has occurred tonight, which is chain link fences not being covered in the draft ordinance. He again suggested that the ordinance go back to Mr. Brown and let him work with the neighbors. Voting for the ordinance will not eliminate what has happened; the person does not have to take down what he has put up and the vote tonight tells Mr. Fajardo to keep what he has, but he cannot put up a chain link fence.

Commissioner Hubbard stated that once the ordinance is passed, the Commission can go back and discuss the ordinance and make any changes they deem necessary.

Hearing no further discussion, the original motion carried 5-2 with Commissioners Howard and Postell voting no.

Commissioner Langstaff introduced

AN ORDINANCE NO. 10-116

Restating the City of Albany's Pension Ordinance

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 Hubbard; the motion unanimously carried.

Commissioner Marietta introduced

AN ORDINANCE NO.

Adopting a Small Business Procurement Program for the City of Albany

Commissioner Marietta 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 failed 2-5 with Mayor Adams, Mayor Pro Tem Pike, Commissioners Howard, Hubbard and Langstaff voting no.

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Commissioner Langstaff introduced

AN ORDINANCE NO. 10-117

Providing for Sunday sales at the James H. Gray Civic Center

Commissioner Langstaff then offered the ordinance and asked for unanimous consent to dispense with the second reading and asked for its adoption, seconded by Hubbard; the motion carried 5-2 with Commissioners Howard and Marietta voting no.

Commissioner Howard introduced

AN ORDINANCE NO. 10-118

Amending the City of Albany's FY 2010 Budget

Commissioner Howard 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.

RESOLUTIONS

Following the recommendation of the Committee of the Whole, Commissioner Hubbard moved to adopt the following, seconded by Commissioner Howard; the motion unanimously carried

A RESOLUTION NO. 10-R125

Authorizing the Filing of an Application with the Dept. of Transportation, USA and GDOT for a Grant under Title 49 CSC, Sect. 5307 re: Transit bus replacements

Following the recommendation of the Committee of the Whole, Commissioner Howard moved to adopt the following, seconded by Commissioner Hubbard; the motion unanimously carried

A RESOLUTION NO. 10-R126

Authorizing the Filing of an Application with the US Dept. of Transportation, FTA for Federal Transit Assist., authorized by 49 USC Chapter 53, Title 23 re: Transit capital/operating grant

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

A RESOLUTION NO. 10-R127

Authorizing use of SPLOST V Funds to pave six alleys

Following the recommendation of the Committee of the Whole, Commissioner Howard moved to adopt the following, seconded by Hubbard; the motion unanimously carried.

A RESOLUTION NO. 10-R128

Affirming the Determination of the Albany/Dougherty Historic Preservation Commission; authorizing Planning & Development Services to issue a Certificate of Appropriateness for 216 W. Broad Ave.

Following the recommendation of the Committee of the Whole, Commissioner Howard moved to adopt the following, seconded by Commissioner Langstaff.

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A RESOLUTION NO. 10-R129

Responding to the Office of Legislative Counsel's February 15, 2010 letter to Senator
Freddie Sims

Commissioner Postell stated that he was absent when this clandestine situation occurred and expressed concern on the language. Mr. Davis explained that the City was responding to a letter sent to Senator Sims by the Office of Legislative Counsel and the response that is the package was sent. Commissioner Postell stated that a map was sent with the correspondence that had not gone through the proper channel, adding that the City sent the map and that the County was not included in the process as they voted no. He suggested the City Commission is trying to ram something down the throat of the citizens without the County's input. He stated that there was never a meeting with the County to decide anything about consolidation; the County voted early on and it was a tie vote – was voted down. He said Senator Sims stopped the motion because it came from Representatives Rynders and Fullerton, who sent it in without the knowledge of Representative Dukes, making this all clandestine. It sounds like the City is endorsing a clandestine action by the Commission - voting to send something that was not accepted by the County and City. Regarding the map, he stated that no map was accepted and that the Charter Commission that met was to bring back information to the City and County Commissions, who were to get together as two bodies and vote on how this would be dispensed to the citizens. He stated that there were meetings within the community, but as far as the City and County meeting – that never occurred and has not occurred to date. He said that if this goes to the Justice Department there will be one Commissioner (himself) who will stand to vote against consolidation. He again stated that the County should have had input. He asked how many questions were in the letter that was sent from Senator Sims. Mr. Davis stated that there were approximately 12-15. Commissioner Postell stated that these were issues that were not settled as it was not done right and the Commission is voting to consolidate and the citizens may not want this. He again stated that this is very clandestine as the County was not involved in making these decisions and suggested that since the City was the only entity involved it should be tabled or thrown out. He stated that the channels were not followed and asked if the right map was drawn. He added that he asked several questions when the map was drawn by Linda Meggers, who makes her living by drawing maps. He again suggested that this be tabled and that a letter not be sent as it will make the City look stupid because the County was not involved. He said he is completely against the resolution and it is all clandestine because Representatives Fullerton and Rynders met with Commissioners at Doublegate and decided that they would push consolidation.

Commissioner Marietta agreed with some of Commissioner Postell's points, saying he would feel better if the letter goes before the County Commission to give them an opportunity to have input. He said he would be in favor of tabling until the next meeting to allow the County Commission to look at the responses and make recommendations back to the City Commission. He agreed on including the County Commission for their response and said in the interest in good government, it would be good to have their input. He then moved to table to the next work session (April 6) to have the County Commission to review the letter and map and give input, seconded by Commissioner Postell.

Mayor Pro Tem Pike asked if the letter has already been sent. Commissioner Marietta stated that it was unofficial. Commissioner Postell agreed, adding that if the letter was sent it is another clandestine move. He called the question with the motion failing 2-5 with Mayor Adams, Mayor Pro Tem Pike, Commissioners Howard, Hubbard and Langstaff voting no.

Mayor Pro Tem Pike stated that even though he is new and at the beginning of this issue, a consolidated charter was already in Atlanta; the one that was sent does not have to be considered. He said he would rather have something the City wants submitted to Senator Sims as opposed to not having anything, which seems logical. The County has said they do not want this, but at the end of the day it is a decision of the voters. Mayor Adams

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agreed, stating that even if the Commission does not send anything, it does not negate the fact that something will be presented. He suggested that what was considered as an unacceptable bill; the two Representatives will put forward and push unless the City sends Senator Sims its version. He clarified that it goes back to the House to change then it goes back to the Senate again. He discussed Senator Sims stopping the one that the City objected to from moving forward and the Commission promised Senator Sims that they would send what they want to see happen. He added that just because there is a proposal does not mean it will take place as it has to then go to the Department of Justice and be voted on by the citizens.

Commissioner Postell stated that Senator Sims said she needed something to support what Representatives Fullerton and Rynders had clandestinely done. If she had not gotten anything, she was not supporting Representatives Rynders and Fullerton as it could not go forward without her endorsement. He suggested that the City is under the impression that we are bailing Senator Sims out, and she does not care if Dougherty County and Albany collapses and not have a government. He again said this is clandestine as the two groups never voted – only the City. He again stated that this was instigated at Doublegate by people pushing consolidation to get Blacks out of office.

Hearing no further discussion, the motion carried 5-2 with Commissioners Howard and Postell voting no.

Commissioner Howard moved the following consent agenda, seconded by Commissioner Langstaff; the motion unanimously carried.

CONSENT AGENDA

Recommendation of the Committee of the Whole to approve the following current bids:

1. Vehicle purchases (4 Ford Pickups), Sunbelt Ford-Town, Albany, GA

| | |
|-------------------|-------------|
| Total expenditure | \$51,567.92 |
|-------------------|-------------|

2. Vehicle purchases (14 mid-size passenger vehicles), Ford Town, Albany, GA

| | |
|-------------------|--------------|
| Total expenditure | \$240,322.04 |
|-------------------|--------------|

There being no further business, the meeting adjourned at 10:40 p.m.

MAYOR

ATTEST

CITY CLERK