

MARCH 16, 2010

COMMITTEE OF THE WHOLE

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

Mayor Adams called the meeting to order at 8:31 a.m.

CITIZEN APPEARANCE

William Wright discussed information as noted in his handout (copy on file) pertaining to contract opportunities and 30 years of dealing with indifference and differential treatment. He referred to pages 1-6 chronicling the history and noted page 7 pertaining to the first Black Commissioner not being sold on the minority plan. Regarding pages 8-9 he discussed the one-year of federal stimulus spending, which demonstrates that minorities are not getting their fair share of stimulus funding; the goal was missed for Latinos (6%) and Blacks (8%). Regarding page 10, he referenced a magazine article citing America's ten poorest cities, which lists the City of Albany. He commented on data from the census demonstrating the poverty in Albany's population and noted pages 12-16, which discusses contracting for minority owned businesses. Referencing pages 18-21, he noted other Georgia cities that have minority plans as of March 2010, suggesting that Albany is the only city that does not have a minority business program. He added that a consultant was asked to contact the City Attorney regarding this and asked the Commission for consideration in adopting what has been presented.

BUS REPLACEMENT GRANT APPLICATION

Commissioner Langstaff moved to approve, seconded by Commissioner Howard; the motion unanimously carried.

FY 2012 FTA GRANT RE: CAPITAL/OPERATING AID

Commissioner Langstaff moved to approve, seconded by Commissioner Hubbard; the motion unanimously carried.

PROPOSED CONSOLIDATED CHARTER

Wes Smith, Asst. City Manager, referenced page 9 (copy on file) and discussed information pertaining to the letter received from Senator Freddie Sims. He noted the questions and answers beginning on page 14-15 and information in the back of the notebook showing the map and information from Mr. Davis. He then discussed page 14 with the 11 questions and suggested answers. Regarding the formatting (#7) Mr. Davis explained that as his office prepares ordinances in a certain format, the state prepares bills in a certain format and that the information will be transferred and formatted into the

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State's language; none of the substance will be changed. Mr. Smith stated that there is no answer for #8, the effective date, until there is a vote. Regarding items nine-ten Mr. Davis explained that Appendix A and B (copy on file) described the implementation of the Charter, which is in a separate document that includes Mr. Smith's email. He said his note explains how he arrived at that point dealing with the vacancy of the CEO. They (the State) will correct it as it ended with the word 'death', but should have continued on, referring to #5 in the letter. He stated that Appendix B describes the process of an implementation plan and whether there will be an initial budget, which reflects the present City and County budgets. He stated that after taking office, the Commission will prepare the first consolidated budget to start the next fiscal year. Referring to item #11, Mr. Smith stated that there was some confusion on the part of the State; it is not applicable and should not have been in there. He said that staff recommends that the Commission consider these as the responses back to the State.

Mayor Adams referenced the proposed map and commented on the demographics of all eight wards, which would have four wards with a majority of African-Americans and two wards that are predominately non-African-Americans and two swing wards. Mr. Smith stated that the Charter Committee selected the map.

Commissioner Marietta asked for more current information through the Board of Elections. He asked that this be tabled until the Board of Elections gives a list of registered voters for the wards as listed on the map.

Commissioner Hubbard asked if the over 18-population on the bottom chart lists only registered voters. Discussion followed with Mr. Smith suggesting that it is the actual population. Mayor Pro Tem Pike stated that the map is drawn via population and lines are not drawn on the number of registered voters.

Mayor Adams asked for clarification. Mr. Davis stated that Linda Meggers, a recognized expert in the field, drew the map. Commissioner Marietta stated that some of her work has been overturned in the courts due to federal lawsuits. Mr. Davis stated that he is not aware of this. He stated that the map is drawn by statistics.

Commissioner Langstaff advised that when he was on the drafting committee, registered voter data was reviewed when the map was approved and the information is in the minutes. Mayor Adams asked if there were other maps. Commissioner Langstaff stated that there were five-six other maps and it was an exhausting process. Mayor Adams asked if the five year time span warrants an update of the maps. Commissioner Langstaff stated that the census will provide new information. Mr. Lott stated that this is current data until new, accurate census is produced. He advised that the issue is time sensitive - if the Commission wants to respond. Commissioner Langstaff stated that the map that was referenced in the charter was approved to send up. He stated that any questions should have been asked when it was in the discussion phase.

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Commissioner Marietta stated that he looked at the map and it is not illegal to look at and compare registered voters. He said there is a big difference between the total population and the voting age population. Since this cannot be approved until the night meeting he asked for more data from the Board of Elections on the eight districts. Commissioner Langstaff stated that he does not want to hold up the process. Commissioner Marietta stated that the new numbers will be interesting and revealing. Mayor Adams agreed to do this correctly rather than rushing it through. He said he has no problem with this map and was only asking if there were competing maps. Mr. Smith stated that this is the map the committee selected. Commissioner Langstaff stated that the Charter Committee unanimously voted on this map.

Mayor Adams stated that after review of the 11 items that were submitted by Senator Sims, the issue is whether to consider the answers provided by staff and move the item forward.

Commissioner Langstaff moved to send the responses forward, suggesting that additional information be given by the night meeting. Mr. Davis asked if the motion is to send the information instanter and whether the Commission intends to send it tomorrow. Commissioner Marietta replied after the night meeting. Commissioner Langstaff withdrew his motion – Mayor Adams stated that the motion died due to lack of a second. Discussion followed with Commissioner Langstaff asking the time restraints. Mr. Davis discussed the number of days left for the Legislature and advised that there is a time constraint on the matter. Commissioner Langstaff asked if the recommendation is to approve now. Mr. Davis stated that the information can be approved today and ratified at the night meeting. Commissioner Langstaff moved to send the information instanter and ratified at the night meeting, seconded by Commissioner Hubbard; the motion unanimously carried.

TRAVEL

Mayor Pro Tem Pike moved to approve the following, seconded by Commissioner Howard; the motion unanimously carried.

1. Mayor Pro Tem C. Pike – Newly Elected Official Training, Tifton, GA; March 4-6, 2010 - \$557.20
2. City Clerk S. Tolbert – GMA Annual Conference, Savannah, GA; June 26-27, 2010
3. City Manager A. Lott – 2010 Mtg. with Legislative Delegation, Atlanta, GA; Feb. 24-25, 2010 - \$213.00
4. City Manager A. Lott – Mtg. with Legislative Delegation, Washington, DC; March 2-5, 2010 - \$1,221.01
5. City Manager A. Lott – Mtg. with Speaker of the House, Atlanta, GA; March 9-10, 2010 - \$213.00

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PUBLIC SAFETY MATTERS

REVIEW OF ANIMAL CONTROL ORDINANCE

Commissioner Marietta stated information provided by the media indicates that this issue was not well received based on feedback from the community. He asked the Commission to consider selecting an Animal Control/Citizen Task Force Committee to make recommendations and clarify the ordinance because of the way it was written, adding that obviously the intent was not to put cats on leashes as the media interpreted the ordinance.

Mayor Adams asked if Animal Control has a citizen advisory committee in place. Mr. Lott stated that there is not a committee of this nature with Animal Control.

Commissioner Langstaff asked to hear from staff on this issue regarding the change of the ordinance, i.e., what was the purpose of the change and what problems were being addressed. Mr. Lott explained that 'other animals' was included because more than 50-60% of calls to Animal Control are related to stray/wild cats, which were being trapped with no authority to do this being included in the ordinance. He said the intent was not to put cats on leashes. Commissioner Langstaff stated that other cities have addressed the issue of wild cats and asked how other cities are handling feral cats/tom cats. Mr. Lott stated that some cities require tags/licenses if they are house pets. He advised that Animal Control can give the Commission a briefing on this subject that will include information from other cities.

Commissioner Marietta stated that he would like to have citizen involvement. Mayor Adams asked Commissioner Marietta to provide information. He commented on stray cats having rabies and not overlooking this concern. Commissioner Marietta suggested a program in partnership with the Humane Society to neuter and inoculate feral cats and then released them back into the wild.

Commissioner Langstaff suggested that Commissioner Marietta and concerned citizens meet with the City Manager's staff to come back with a recommendation via another agenda item. He again asked for information from other cities before hearing input.

Mayor Adams stated that any citizen can sign-up to speak on this issue. Commissioner Langstaff again asked to see other options. Commissioner Marietta clarified that staff will meet with the concerned citizens.

301 N. MONROE RE: HINDS BUILDING

Mayor Pro Tem Pike stated that this was put on the agenda to open broader dialog on historic properties and revitalization of the historic district. He said he feels there is a difference between blighted and abandoned properties, e.g., abandoned property does not necessarily have to be blighted property. He asked that there be discussion on the policy

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in place, i.e., eradication as it pertains to downtown historic properties/revitalization process. He asked that the discussion address revitalizing historic properties as opposed to demolishing them, with the Hinds building being a good example of being abandoned, but not blighted. He asked for a stay of demolition on the building and to come back with a plan on addressing blighted properties as opposed to demolishing them.

Commissioner Langstaff asked when it is scheduled for demolition. Mr. Lott stated that unless action is taken today, it will be demolished this week; Mr. Davis agreed. Commissioner Langstaff asked if there are photos. Mayor Pro Tem Pike replied that there are no photos. Commissioner Langstaff asked Mayor Pro Tem Pike what can be done. Mayor Pro Tem Pike stated that other cities have done similar projects, i.e., a revolving loan fund to revitalize historic neighborhoods as well as low interest loans, etc., programs that can be put together to address this. Commissioner Langstaff asked if an amount of money is needed to go into the fund to begin with; Mayor Pro Tem Pike stated that funding sources is one of the things which need to be identified. Regarding the Hinds Building, Mr. Lott stated that someone owns the property and is not participating in the process, which is a problem. Mayor Pro Tem Pike suggested coming up with a plan as opposed to having a green space that the City will have to keep up, since there will be a lien on the property anyway. He explained that the program gets the buildings usable, which creates a benefit to the City.

Mayor Adams suggested that a program be brought back to the Commission. He stated that it is probably too late to save the Hinds Building and again suggested that staff look at the program to include funding.

Commissioner Marietta asked James Taylor, Asst. City Manager, if this program was suggested at the recent downtown meeting to have a revolving fund to rehab older building. Mr. Taylor stated that this is on the list of things he has to look at. Mr. Lott clarified that a process has not been established regarding revolving funds, but the City and County are looking to establish a Land Bank Authority to dispose of many of the properties with fi fas and liens. Discussion followed on the fi fas that are attached to the properties, rehabbing properties and bringing them up to code and the concern of interfering with the judicial process. Mayor Pro Tem Pike stated that he discussed this with Judge Weaver and Mr. Davis before bringing it to the Commission and suggested that the Commission change policy, especially if it is no longer effective. Mayor Adams again suggested Mayor Pro Tem Pike bring the details for staff to look into.

Commissioner Langstaff asked the legal options to address unresponsive owners of blighted properties. Mr. Davis explained that the ordinance is based on state law allowing the property owner to rehab the property; he briefly discussed the process. Commissioner Langstaff commenting on the options and asked whether the law provides to allow the City to solicit request for proposals to rehab properties when the City does not own the property, the owner has been unresponsive, but they still own it. Mr. Davis mentioned the security deed and the process that will be looked at.

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Mayor Adams again asked Mayor Pro Tem Pike to bring back additional information.

In reply to Commissioner Howard on the Land Bank, Mr. Lott stated that dialog has begun with the County; both the City and County have numerous properties with liens and fi fas, which cannot be sold on the courthouse steps because the liens and fi fas exceed the value of the property. He said the Land Bank Authority will help dispose of the properties and allow flexibility to focus on fair market value. Commissioner Howard agreed, adding that this needs to be looked into as soon as possible. He commented on the architectural structures of older homes and the need for their preservation.

Commissioner Hubbard agreed with the discussion adding that she is reluctant to rescind or hinder what has been done with the demolition process. She said she favors a Land Bank Authority as it will allow the property to be put back on the tax rolls.

CIVIC CENTER SUNDAY ALCOHOL SALES

Commissioner Langstaff moved to approve, seconded by Commissioner Hubbard.

Mayor Pro Tem Pike asked if there is a date certain or specific day the Panthers are asking to sell alcohol. Mr. Davis replied that the ordinance is not limited to any specific date after the night meeting and if approved, it will be part of the alcohol section of the code from now on. Mayor Pro Tem Pike clarified that the Commission is approving alcohol sales at the Civic Center on Sundays forever. Mr. Smith interjected that the team specifically asked for the April date, but as they control the concessions they would like that option for the ordinance to allow indefinite sales on Sunday.

Mr. Davis advised that bowling alleys are allowed to sell on Sunday, which the State allows.

Commissioner Langstaff stated that it could be limited to the one Sunday game, but it would facilitate other events choosing to come to the Civic Center and is probably something that is overdue being done. He stated that if it doesn't work out it can be changed. Mayor Pro Tem Pike stated that he is not necessarily against it; it seems that staffs recommendation and the ordinance are two different things and he wanted to make sure both items matched each other.

Commissioner Howard stated that if it is done for one person it will be done for all with the possibility of someone booking the Civic Center every Sunday of the year for a sports event. Mr. Smith replied that some events don't lend themselves to alcohol sales, but it will be on the books for when there are appropriate events.

Hearing no further discussion, the motion carried 4-2 with Commissioners Howard and Marietta voting no.

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ALCOHOLIC LICENSE TRANSFER

Commissioner Langstaff moved to approve the following, seconded by Mayor Pro Tem Pike; the motion carried 5-1 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

Commissioner Langstaff moved to approve the following, seconded by Mayor Pro Tem Pike; the motion carried 5-1 with Commissioner Howard voting no.

2. Duttatrey, Inc., d/b/a Applejax Sports Bar & Lounge; 1303 E. Broad Ave., transfer consumption license to D. Patel

ALCOHOL LICENSE APPLICATIONS

Commissioner Langstaff moved to approve the following, seconded by Mayor Pro Tem Pike; the motion carried 5-1 with Commissioner Howard voting no.

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

ONE-DAY ALCOHOL LICENSE APPLICATIONS

Commissioner Langstaff moved to approve the following, seconded by Commissioner Hubbard; the motion carried 5-1 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.

Commissioner Langstaff moved to approve the following, seconded by Mayor Pro Tem Pike; the motion carried 5-1 with Commissioner Howard voting no.

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.

ITEMS FOR NEXT AGENDA

Mayor Pro Tem Pike asked to add information for the revolving fund. He asked when there will be discussion on the Heritage House. Mr. Lott stated that this will be on an agenda in April.

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COMMUNITY & ECONOMIC DEVELOPMENT MATTERS

INELIGIBLE CHODO AFFORDABLE HOUSING PROJECT RE: GROVE TOWN GARDEN APTS.

Latoya Cutts, Community Development Director, discussed information as noted on page 40 (copy on file) pertaining to HUD's monitoring review of the City's HOME Investment Partnership Program. She referred to Cutliff Grove Family Resource Center, a decertified community housing development organization and the Grove Town Apartment project and advised that HUD has deemed the affordable housing project as an ineligible activity, resulting in the City having to repay \$374,715 using non-federal sources. In reply to Mayor Adams, she stated that the City normally receives \$653,000 in HOME funding and that they are expecting a 7% increase in the funding in this upcoming year, which will be reduced by the \$374,715. She distributed and discussed additional information (copy on file) with the three options, which clarifies and gives examples of the options as listed in the agenda item. She stated that for decision one, option 2 has been recommended, which uses the City's general fund to repay HUD the \$374,715 and for decision two, the recommendation is Option 2 to pursue repayment of the \$374,715 less the purchase price of the land to allow Cutliff Grove to make equal payments over an established number of years, requiring them to sign over rights to the land.

Mayor Adams asked if there has been an appraisal of the land to determine its worth. Ms. Cutts stated that it is worth approximately \$74,750,000. Mayor Adams questioned the \$96,000; Ms. Cutts replied that is what Cutliff Grove paid for the land, plus attorney's fees and closing costs. She explained that Cutliff Grove Church sold the land to the CHODO for the \$95,000 listed in the information.

Commissioner Howard asked if there is a time frame to respond to HUD. Ms. Cutts stated that the City has to respond within 30 days, but with an approved extension, the City has until April 9th. In reply to Commissioner Howard, Ms. Cutts explained that taking the money from HOME funding reduces the amount of money CED has to serve low to moderate income families which is why she recommends repaying it from the general fund. Mr. Lott stated that the Commission can decide either. Ms. Cutts added that they must submit a request to HUD in Washington to approve use of HOME funds. Commissioner Howard asked if Cutliff Grove can be recertified after a probation period or is this a done deal. Ms. Cutts stated she thinks this is a done deal as far as this particular project is concerned, but at some point later if Cutliff Grove decides to reapply to the City for recertification for another project they could reapply and the project can be reconsidered at a future date. Mr. Lott clarified that their certification will be considered if they have a project that is eligible, which they no longer have; HUD is the agency that has deemed this particular project ineligible. Commissioner Howard asked Mr. Lott's recommendation. Mr. Lott stated that the reason he would take it from the general fund is due to a decision the Commission made at the last retreat, which puts poverty as a priority; it did not seem appropriate to reduce HOME funds; however, he said that he is flexible. Commissioner Howard stated that some of his constituents are concerned about using taxpayer's money to subsidize a CHODO. Mr. Lott asked if the general fund can

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share half the funds. Commissioner Howard expressed concern on not monitoring the CHODO, stating that because Albany is an entitlement city, it does not want to pit itself against HUD and not jeopardize future entitlements. Mr. Lott agreed that the City of Albany has a good relationship with the regional office of HUD and Ms. Pressley, who gave the 30 day extension. He explained that they (HUD) advised the City to take this action after their inspection of the organization and found it did not have the capacity to manage the project. He stated that if a CHODO made a request today, he would not make a recommendation to support it without definitive, concrete financial balance documentation. He added that they would have to show letters of credit from other places. He stated that the for-profit CHODOs are more sound business models and is the best way to do CHODOs. He added that this CHODO may be a victim of the economic downturn. He commented on limited staff and how much money can be used administratively to support the project.

Mayor Pro Tem Pike stated that he has been in discussion with Ms. Cutts and Cutliff Grove about the project. He said he was not aware that the property had been sold to the CHODO, which is in essence still Cutliff Grove and concerns him. He asked if this is standard operating procedure. Ms. Cutts stated that there is nothing illegal or ineligible about them doing that, but the CHODO does not have necessary funding to move forward with the development of the project. Mayor Pro Tem Pike asked if the church could have given the property to the CHODO and used the \$97,000 toward development of the property; Ms. Cutts agreed. Mayor Pro Tem Pike stated that this changes his perspective on this situation and that he was not privy to this information before today.

Commissioner Hubbard stated that she would like to table as there is a lot of information to absorb and no information has been provided since October-November as to what was going on prior to this agenda item. She asked to table. Mayor Adams stated that the matter is time sensitive. Mr. Lott stated that it has to be taken up by the night meeting or have a special called meeting to respond to HUD.

Commissioner Marietta asked if there can be a special called meeting on Tuesday, April 6. Mayor Adams clarified the motion to table until April 6, seconded by Commissioner Marietta. Discussion followed on the rules of the motion. Hearing no further discussion, the motion failed 3-3 as a tie vote.

Additional discussion followed. Commissioner Langstaff stated that he is in favor of option 2, adding that he is not in favor of dipping into the general fund. He then moved to table, seconded by Commissioner Hubbard. Discussion followed on the time of the called meeting and if there can be a called meeting. Ms. Cutts advised that staff has to send a letter to Washington DC to ask for approval to use HOME funds. She stated that without knowing the amount of funding it will be hard for CED to plan for projects and activities. She added that repayment of the money is not optional, it has to be repaid and the issue is how it will be repaid. Mr. Lott stated that staff would like to have more time, and it can be done as a special called meeting on April 6.

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Commissioner Marietta asked for what HOME funds are used. Ms. Cutts said it is for building affordable housing, but a CHODO may undertake a rehab project of affordable housing. Commissioner Marietta referred to Greater Second Mt. Olive's CHODO project, asking if it will be impacted by losing CHODO funds for 2011. Ms. Cutts replied that CHODO funds would not be lost, but it would reduce HOME funds and the 15% going to CHODO's would be reduced. Commissioner Marietta asked if this will have a long term effect by using HOME funds to repay the money. Ms. Cutts stated that they have been in conversation with HUD, but she does not know at this time. In reply to Commissioner Marietta on requiring Cutliff Grove to pay back to the general fund over time, if HOME funds, he asked if Cutliff Grove can still be required to pay back; Ms. Cutts replied in the affirmative.

Mayor Adams commented that the Commission received calls from Rev. Drake and said he feels some Commissioners want to give them time to speak with the Congressman to see if he can have some influence on HUD's decision. He stated that the decision is up to the Commission; HUD has made a decision.

Discussion followed with Mayor Pro Tem Pike stating that he was not privy to the conversation pertaining to the involvement of Congressman Bishop. He suggested that even if Congressman Bishop gets involved, what they are still requesting is that they are given the rest of the money. He asked if the City is prepared to give them the rest of the money for that project. Mayor Adams replied that his honest opinion is no. Mr. Lott interjected that it is also stipulated that a second lien would have to be taken on the Nativity.

Commissioner Marietta stated that he is in favor of having Congressman Bishop assisting if it enables the City from having to repay the money. Commissioner Langstaff commented on the conditions that Mayor Pro Tem Pike noted. Mr. Lott stated that HUD is another agency and suggested Congressman Bishop may/may not be able to assist.

Mayor Pro Tem Pike clarified that this is only part of the money that the City was going to give, it is not the total amount and for the project to happen, the City would have to give more money. Congressman Bishop's role would be to have HUD forgive the money owed; however, the City would have to give the rest of the money to build the project and give Nativity for the bank to use as a lien, thereby relinquishing the City's ownership. He said that when he received his call, he was not made aware of Congressman Bishop's involvement and the \$97,000. He said he learned of both only now, which has changed his perspective on his approach to this project. He added that he was in favor of tabling until receiving this information and added that as good stewards, he cannot see obligating another \$700,000 to this project and taking option 2 adversely affects the poor and disadvantaged people in Albany.

Mayor Adams stated that he is not advocating for Cutliff Grove and suggested giving them the opportunity to approach Congressman Bishop. Mayor Pro Tem Pike moved to

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table until April 6, seconded by Commissioner Hubbard; the motion carried 4-2 with Commissioners Howard and Langstaff voting no.

(Following the break, Mayor Adams asked Mayor Pro Tem Pike to chair the rest of the meeting)

PUBLIC ADMINISTRATION AND FINANCE MATTERS

FY 2010 BUDGET AMENDMENT

Larry Johnson, Management Budget Officer, discussed information listed on page 49 (copy on file) and asked for approval.

Mayor Adams commented on the grant fund increase. Mr. Johnson clarified that there is a grant account, which works with all departments to identify grants not in the original appropriation that should be included in the current FY budget; he referred to page 58 and explained the police grants. Mayor Adams stated that he proposed having a full time grant writer for the City, with Ms. Thelma Watson serving in that capacity at one time, but he was told that each department had someone assigned as a grant writer as extra duty. He asked Mr. Johnson if he is saying that the City now has one person supervising grants. Mr. Johnson explained the process indicating that there are multiple grant writers. Mr. Lott noted page 58 which lists APD Grants. Mr. Johnson added that the grants have been identified and have been incorporated into the budget and referred to page 57, which lists the other grants

Commissioner Marietta moved to approve, seconded by Commissioner Hubbard; the motion unanimously carried.

CURRENT BIDS

Angela Calhoun, Buyer, discussed the following:

1. Alley Paving Phase IV; Jim Boyd Construction Co., Albany, GA
Estimated expenditure \$409,350.15

Commissioner Marietta moved to approve, seconded by Commissioner Howard.

Commissioner Howard asked if this is approved next week, when does paving begin. Rod Hutchinson, Civil Engineering Superintendent, stated in April. Hearing no further discussion, the motion unanimously carried.

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Dale Henry, Buyer, discussed the following:

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

Total expenditure	\$51,567.92
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Commissioner Langstaff moved to approve, seconded by Commissioner Howard.

Mayor Pro Tem Pike asked if there is a preference for local bidders. Stephen Collier, Central Services Director, replied in the negative and explained the City's reciprocity policy. Mr. Lott added that the City uses the lowest and best qualified bidder.

Mayor Adams suggested printing a booklet for new Commissioners with information on various City items of interests. Mr. Collier stated that he can work with the City Manager's office to put something together.

Hearing no further discussion, the motion unanimously carried.

Commissioner Langstaff moved to approve the following, seconded by Commissioner Hubbard; the motion unanimously carried.

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

Total expenditure	\$240,322.04
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Commissioner Langstaff moved to approve the following, seconded by Commissioner Hubbard.

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

Total expenditure	\$240,009.00
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Commissioner Hubbard asked for clarification on the bidder tabulation. Mr. Collier distributed information (copy on file) with the correctly aligned format. Mr. Henry clarified the tabulation.

Commissioner Marietta referred to Allan Vigil's bid, which states 'demo'. He said his understanding of a demo is a vehicle management has been driving and asked how many miles could be on a demo; Mr. Henry replied that most times it is between 4-5,000 miles. Commissioner Marietta made a substitute motion to award the bid to Ford Town because they are not offering demos. He said he prefers new vehicles for the Police Department. Mr. Collier stated that the recommendation is for the new cars. In reply to Commissioner Hubbard, Mr. Collier stated that the difference is \$222.64 per car. Commissioner Hubbard seconded the motion.

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In reply to Mayor Adams, Mr. Lott stated that the cost would be \$2,449 more. Commissioner Langstaff clarified that the City is purchasing a commodity and there is no difference in what is being bought; Mr. Henry agreed. Commissioner Langstaff asked Mr. Davis if the substitute motion is to give a local preference in the award of the bid when there is no local preference. He asked if this is legal; Mr. Davis replied in the negative. Commissioner Hubbard suggested asking Ford Town to beat the price. Mr. Davis stated that it would not be a fair bid process.

Commissioner Langstaff stated that it is a small amount of money and it would be good if the local dealer received it, however, if Allan Vigil is the low bidder and they are not awarded the bid, the odds of them bidding again in the future is not good. He stated that Morrow, Ga., does not have local preference and that he is in favor of the reciprocity ordinance adopted by the Commission, adding that the State of Georgia has this same process. He asked Mr. Collier if his trade organization is against local preference; Mr. Collier replied that they (the National Institute of Governmental Purchasing) has a resolution against local preference because it stifles competition.

Mayor Adams stated that Ford Town is getting over \$300,000 today in bids and while he is sure they prefer getting the other \$200,000, the City must maintain healthy competition.

Commissioner Marietta stated that he remembers another case when a bid was awarded to a local bidder who matched the bid. Mr. Collier stated that it could have been with a RFP process and not with vehicles. Mr. Henry stated that it was done with Ford Rangers in the past.

Regarding the substitute motion to award the bid to Ford Town, Commissioner Hubbard stated that her passion is to keep bids within the City and this is her vote.

Commissioner Langstaff stated that Mr. Davis said it is illegal. Mr. Lott asked if this should be voted on. Commissioner Marietta asked for clarification on the legality as it was done before. Mr. Davis stated that there is no ordinance that supports the vote; the City has a reciprocity policy. Mayor Pro Tem Pike stated that if there is an ordinance on how it should be done then this is how it should be done. He mentioned that the ordinance can be changed, which is another discussion. Commissioner Marietta withdrew his motion.

Hearing no further discussion, the original motion to accept staff's recommendation carried 5-1 with Commissioner Marietta voting no.

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PUBLIC FUNCTIONS MATTERS

MATTERS FOR PUBLIC HEARING AND CONSIDERATION ON TUESDAY, MARCH 23, 2010, 8:00 P.M., ROOM 100; GOVERNMENT CENTER BUILDING, 222 PINE AVE.

Commissioner Langstaff moved to accept the following for information, seconded by Mayor Adams; the motion unanimously carried. Mr. Lott advised that due to the amount of zoning items listed, staff will give an abbreviated amount of information at the public hearing.

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
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
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
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
5. Zoning Case #10-024 – Grove Park, Inc./Owner; Bright Meyers Albany Assn., 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)
6. Zoning Case #10-026 – William White/Owner; Wayne Bruce/Applicant; request to rezone property located at 1009 Radium Springs Rd., from C-5 to C-3. (PC approved 9-0 WARD 6)
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
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 property located at 1508 W. Broad Ave., (PC approved 9-0 WARD 3)
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., to property located at 2703 Dawson Rd. (PC approved 9-0 WARD 5)

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HISTORIC PRESERVATION COMMISSION APPLICATION

Commissioner Langstaff moved to approve the following, seconded by Mayor Adams, the motion unanimously carried.

1. Certificate of Appropriateness Case #10-014 – Pong Hughes, Owner/Applicant; request to add wall sign in front of property located at 216 W. Broad Ave. (HPC approved 5-0 WARD 3)

AMENDING ZONING ORDINANCE RE: FENCES & WALLS

Commissioner Langstaff moved to approve, seconded by Mayor Adams.

Mayor Pro Tem Pike asked for clarification regarding chain link fences. Howard Brown, Planning Director, stated that the draft ordinance (copy on file) is what is up for adoption.

Commissioner Hubbard asked how this will be enforced and if a permit will be needed to erect a chain link fence. Mr. Brown replied that if it is above 6' in height a building permit is required and that anything less than 6' is not monitored. Commissioner Hubbard asked how they would know if someone in her ward is going to put a fence up if it's more than 6'. Mr. Brown replied either by patrolling the area or through complaints. Commissioner Hubbard asked if this will be done after the fence is erected. Mr. Brown agreed.

Discussion followed on banning chain link fences with Mayor Pro Tem Pike expressing concern about chain link fences in front yards with others being grandfathered in. He mentioned residents new to Albany who erect a chain link fence and Code Enforcement comes around and tells them they cannot put up the fence. He questioned the ordinance being adopted for a specific, minute population within the city.

Commissioner Langstaff noted the agenda item (copy on file) pertaining to the overhaul of the zoning ordinance with no provision to deal with fences. He stated that changes were made in various areas within the zoning ordinance and the language was regarding chain link and recently, it was discovered to be a problem, i.e., if chicken wire was put up. He said the ordinance is designed to broaden the prohibition on what is allowed in front yards. He commented on the grandfathering in issue and the three year amortization period, as implemented with the sign ordinance. He suggested that this be discussed in the future.

Commissioner Marietta stated that there is not a grandfathered clause. Mr. Brown stated that it is implied. Commissioner Marietta asked how long the grandfathering allows. Mr. Brown explained the process as it pertains to repairing. Commissioner Marietta commented on elderly citizens who have high wire fences in place that is 8' tall that is used to protect themselves. Mr. Brown stated that they would be grandfathered in once the ordinance is adopted.

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Mayor Adams agreed with Commissioner Marietta that fences are used as protection in some areas. He suggested waiting and letting future commissioners handle this at a later date.

Mayor Pro Tem Pike stated that he is in favor of specifying the type of fencing to not include chicken wire. He commented on someone using aluminum for fencing, which is not appropriate.

Commissioner Langstaff suggested bringing back information from other jurisdictions on how they handle fencing in the front yard, especially cities which have recently addressed their zoning ordinance and set standards. Discussion followed on the zoning ordinance with Mayor Adams addressing ordinances that were adopted, but are not being enforced, i.e., indoor furniture is being used for outdoor furniture. He mentioned that fencing companies will no doubt be unhappy if this is passed. Commissioner Langstaff stated that the ordinance already exists and it says chain link and the only thing that is being included is chicken wire. He told Mayor Adams that this type fencing is up in his (Mayor Adams') neighborhood and that this issue is in Ward 5; it is in a front yard and the person is now putting up chicken wire. He said he have received calls from neighbors since the ordinance was passed in 2009. He explained that a person on Forrest Ridge decided to have dogs in the front yard and was told that he could not put up a chain link and is now putting up chicken wire.

Commissioner Hubbard asked if this will be enforced since permits are not required. She commented on fences in her ward.

Hearing no further discussion, the motion died 2-4 with Commissioners Marietta and Langstaff voting in the affirmative. Commissioner Langstaff stated that the vote allows chicken wire fencing, but prevents chain link fencing.

ORDINANCE RE: REGULATING SEXUALLY ORIENTED BUSINESSES

Mr. Brown stated that he has been working with the City Attorney's office to repeal the adult entertainment ordinance. Mr. Davis explained that case law has been distributed for the Commission to review (copy on file) and determine whether there is a need to revamp the ordinance so that these businesses should be regulated and/or change the zoning ordinance to locate the businesses in certain areas, etc., whether there are secondary effects. Mr. Brown suggested the Commission review the information as presented.

Commissioner Hubbard asked the process and input from current businesses. Mr. Brown explained the review process and advised that on April 6 the Commission will come back on whether or not to consider adoption and there will be a public hearing with the public, etc.

Commissioner Howard asked how many of these type businesses are within the city. Mr. Brown identified four businesses in wards 2 and 3. Mr. Lott clarified that this is an

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information item and the purpose is for the Commission to study the reading material and decide whether to consider this at a future work session. Mr. Brown agreed.

Commissioner Marietta asked Mr. Davis if he has a consensus on recent court cases and what it means and if it can be regulated. Mr. Davis stated that case law shows it can be regulated, but not prohibited. Commissioner Marietta commented on the sign ordinance not regulating sexually oriented businesses. Mr. Davis stated that signage has protection.

ITEMS FOR NEXT AGENDA

Commissioner Howard asked about the Broad Ave., underpass. Mr. Lott stated that it will be on the agenda at the next work session.

EMPLOYMENT POLICY & PROCEDURE REVIEW

Mayor Pro Tem Pike stated that Attorney Don Sweat will give an overview today.

Mr. Lott stated that Mr. Sweat has assisted with the process and will be giving an overview of the process. Mayor Adams stated that this is an overview and that each chapter of the policy will be reviewed during the work sessions.

Mr. Sweat discussed the process and the information provided to him by Mary LaMont, HR Director. He commented on the separate policies and procedures and the existing PMS that is administered through HR and mentioned that other departments have their own operating policies, e.g., WG&L, APD and AFD. He advised that since 1982 the PMS has been modified and there are provisions no longer having application. An effort was made to take the existing PMS, delete, move, supplement, and make changes which was challenging and almost impossible. He noted how the plan was formulated and said he was asked to get involved once it was put into rough draft to determine whether it made sense, etc. He mentioned conflicting provisions in the various sections and said he looked at it and made recommendations/corrections to the draft. He explained that he met with Ms. LaMont beginning in Oct-Nov, 2009 and reviewed the policies and procedures and made suggested changes. He said he liked the way it is being suggested for adoption with separate policies and procedures for separate items, which makes it easy to change. He added that this is user-friendly.

Mayor Adams mentioned other departments with their own version of personnel policies and asked when there are litigations and personnel issues, which are not in sync with policies, does this create an atmosphere to compromise or lose the litigation. Mr. Sweat replied in the affirmative, adding that the largest problem was that the PMS was applied to certain departments of the City, i.e., those under the responsibility of the City Manager according to the Charter. He discussed departments and policies and the Charter that was adopted in 1923 with the police and fire departments not being under the City Manager. He commented on the conflicts Mayor Adams referenced and rules that have to be

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compiled along with PMS. He explained that if it goes to litigation, the judge looks at two documents, the PMS and standard operating procedures that is used by other departments, which creates conflict.

Commissioner Marietta asked about the group that was used to review. Mr. Lott stated that there was a group of managers and a group of employees who reviewed it by paragraphs. He added that WG&L was involved in the process. Commissioner Marietta asked if an employee is unhappy with the new document, can they still give input. Mr. Lott replied in the negative, because it has been presented to the Commission to study. Commissioner Marietta stated that he has had complaints about the new policy and asked Mr. Sweat if it is possible that the City can be sued for changing from the old PMS policy to the new policy as recommended. Mr. Sweat stated that it depends on the nature of the suit, as the idea is to have everyone under one policy. He gave an example of the City Charter and the provisions for certain employees, City Manager, City Attorney, City Clerk, etc., and other positions that are contractual. He explained that other employees can be terminated for a legal cause only, i.e., Asst. General Manager at WG&L. He advised that PMS provides for standards with WG&L, APD and AFD having different areas, which creates conflicts. He commented on the right to due process and employees who can be terminated only for due cause. He said that there are five people who are protected and can only be terminated for cause.

Commissioner Langstaff asked if the Charter can be amended. Mr. Sweat stated that it can be amended through Home Rule.

Commissioner Marietta asked if there will need to be a hearing before the policy is adopted. Mr. Lott and Mr. Sweat agreed. Commissioner Marietta mentioned a fear of retaliation. Mr. Sweat stated that it is the integrity of the Commission and employees have first amendment rights to speak.

Commissioner Langstaff stated that an employee can mention it to their Commissioners and have their (the employee's) voice heard through their Commissioner. Mr. Sweat stated that it has to be heard in a public forum. He advised that department directors are treated differently from regular employees as they are hired by the City Manager. He commented on the disciplinary procedure and the language in the PMS.

Mr. Lott advised that the next meeting will begin with Chapter 1.

There being no further discussion, the meeting adjourned at 11:42 a.m.

SONJA TOLBERT
CITY CLERK