

CITY OF ELBERTON
REGULAR MEETING OF THE ELBERTON MAYOR & COUNCIL

Monday, February 1, 2010 – 5:30 p.m.

Pursuant to due call and notice thereof the Regular Meeting of the Mayor and Council convened at 5:30 p. m. on Monday, February 1, 2010 in Council Chambers of the Municipal Building, 203 Elbert Street with Mayor Guest presiding.

Present were: Council Members Butler, Colquitt, Hunt, Seymour, and Paul; City Attorney Phelps, City Manager Dunn and City Clerk Churney.

Mayor Guest called the meeting to order. Council Member Paul led the assembly in the Pledge of Allegiance and in prayer.

Council Member Hunt motioned to approve the minutes of the January 4, 2010 organizational and regular meeting as amended, seconded by Council Member Colquitt. Amended page 3, "Mr. Rousey stated that speakers should be treated professionally and be allowed to speak."

Controller Kevin Eavenson presented the Financial Report through December 2009 with the following net assets:

| | |
|--------------------------------------------------------|-------------------------|
| General Fund | \$ 4.3 million |
| Combined Utilities Fund | \$ 20.3 million |
| Elberton Technology Services Fund | \$ 1.8 million net loss |
| Solid Waste Fund | \$ 220,382 |
| | |
| Unrestricted Investments-General Fund and Utility Fund | \$ 3.2 million |
| | |
| Restricted Investments (SPLOST & Utility Funds) | \$ 789,647 |

Speakers from the floor. Mr. Gary Jones (H.E.L.P.) and Mrs. Catrina Goudelock (Action) were scheduled to speak to Council with regard to the Oglesby Boulevard property. However, due to another commitment they have postponed their discussion until March.

Mr. Lamar Pullian, President of the Granite City Shriner's, asked Council to consider sponsoring the Shriner's Circus to be held in Atlanta in April. He stated that the Shriner's have taken a group of 100 or so Elberton students to the Circus for the past fifty years. Mayor Guest thanked Mr. Pullian and advised that Council would discuss the opportunity at the next work session later this month.

Mayor Pro tem Seymour introduced the following Resolution:

RESOLUTION

WHEREAS: The City of Elberton, Georgia (hereinafter referred to as the “Participating Employer”) has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a defined contribution plan, funded by employer contributions; and

WHEREAS: The Participating Employer has also determined that it wishes to encourage employees’ saving for retirement by offering matching contributions; and

WHEREAS: The Participating Employer has reviewed the Georgia Municipal Association (“GMA”) Defined Contribution Plan, as amended and restated effective as of January 1, 2006 (“Plan”); and

WHEREAS: The Participating Employer wishes to continue participating in the Plan to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities; and

WHEREAS: The Participating Employer is an Employer as defined in the Plan; and

WHEREAS: The Participating Employer has executed an Adoption Agreement (and, if applicable, an Addendum) for the Plan; and

WHEREAS: The Mayor and Council (“Governing Authority”) is authorized by law to adopt this resolution approving the Adoption Agreement (and, if applicable, Addendum) on behalf of the Participating Employer; and

THEREFORE, the Governing Authority of the Participating Employer hereby resolves:

Section 1. The Participating Employer adopts the Plan and the Trust Agreement (“Trust”) for the Plan for its Employees.

Section 2. The Participating Employer acknowledges that the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan (“Trustees”) are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

Section 3.

(a) The Participating Employer hereby adopts the terms of the Adoption Agreement and any Addendum, which is attached hereto and made a part of this resolution. The Adoption Agreement (and, if applicable, the Addendum) sets forth the Employees to be covered by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Adoption Agreement and any Addendum, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.

(b) The Participating Employer acknowledges that it may not be able to rely on the volume submitter letter if it makes certain elections under the Adoption Agreement or the Addendum.

Section 4. The Participating Employer hereby authorizes Ice Miller LLP, Legal Counsel, the volume submitter practitioner who sponsors the Plan on behalf of GMA, to amend the Plan on its behalf as provided under Revenue Procedure 2005-16 and Announcement 2005-37. The Participating Employer understands that the implementing amendment reads as follows:

With the approval of the Trustees, the Practitioner shall amend the Plan on behalf of all Participating Employers, including those Participating Employers who have adopted the Plan prior to this restatement of the Plan, for changes in the Code, the regulations thereunder, revenue rulings, other statements published by Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approval plans. These amendments shall be applied to all Participating Employers.

Notwithstanding the foregoing paragraph, the Practitioner shall no longer have the authority to amend the Plan on behalf of any Participating Employer as of either:

- The date of Internal Revenue Service requires the Participating Employer to file Form 5300 as an individually designed plan as a result of an amendment by the Participating Employer to incorporate a type of Plan not allowable in a volume submitter plan as described in Revenue Procedure 2005-16; or
- As of the date of the Plan is otherwise considered an individually designed plan due to the nature and extent of the amendments.

If the Participating Employer is required to obtain a determination letter for any reason in order to maintain reliance on the advisory letter, the Practitioner's authority to amend the Plan on behalf of the Participating Employer is conditioned on the Plan receiving a favorable determination letter. In any event, any amendment made by the Practitioner is subject to the approval of the Trustees.

GMA will maintain or have maintained on behalf of the Practitioner, a record of the Participating Employers, and GMA on behalf of the Practitioner will make reasonable and diligent efforts to ensure that Participating Employers have actually received and are aware of all Plan amendments and that such Participating Employers adopt new documents when necessary. The provisions of this Section shall supersede other provisions of the Plan to the extent those other provisions are inconsistent. The Participating Employer further understands that, if it does not give its authorization hereunder or, in the alternative, adopt another pre-approved plan, its Plan will become an individually designed plan and will not be able to rely on the volume submitter advisory letter.

Section 5.

(a) The Participating Employer shall abide by the terms of the Plan and the Trust, including amendments to the Plan made under Section 4 and to the Trust made by the Trustees of the Plan, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.

(b) The Participating Employer accepts the administrative services to be provided by GMA and any services provided by a Service Manager as delegated by the Trustees. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees by may be deducted from the Participants' Accounts.

Section 6.

(a) The Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- (i) A resolution must be adopted terminating its participation in the Plan.
- (ii) The resolution must specify when the participant will end.

The Trustees shall determine whether the resolution complies with the Plan, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distribution under the Plan of existing accounts to Participants will be made in accordance with the Plan.

(b) The Participating Employer acknowledges that the Plan contains provisions for involuntary Plan termination.

Section 7. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 8. This resolution and the Adoption Agreement (and any Addendum) shall be submitted to the Trustees for their approval. The Trustees shall determine whether the resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plan. The Trustees may refuse to approve an Adoption Agreement (and any Addendum) by an Employer that does not have state statutory authority to participate in the Plan. The Governing Authority hereby acknowledges that

it is responsible to assure that this resolution and the Adoption Agreement (and any Addendum) are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Governing Authority on February 1, 2010, in accordance with applicable law.

City Manager Dunn read the Resolution in its entirety. Council Member Butler motioned to adopt the Resolution as read, seconded by Council Member Paul and the motion passed unanimously.

Council Member Hunt introduced the following Resolution:

RESOLUTION

WHEREAS: The City of Elberton, Georgia (hereinafter referred to as the “Participating Employer”) has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a defined contribution plan, funded by employer contributions; and

WHEREAS: The Participating Employer has also determined that it wishes to encourage employees’ saving for retirement by offering matching contributions; and

WHEREAS: The Participating Employer has reviewed the Georgia Municipal Association (“GMA”) Deferred Compensation Plan (“Plan”); and

WHEREAS: The Participating Employer wishes to continue participating in the Plan to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities; and

WHEREAS: The Participating Employer is an Employer as defined in the Plan; and

WHEREAS: The Participating Employer has executed an Adoption Agreement for the Plan; and

WHEREAS: The Mayor and Council (“Governing Authority”) is authorized by law to adopt this resolution approving the Adoption Agreement on behalf of the Participating Employer; and

THEREFORE, the Governing Authority of the Participating Employer hereby resolves:

Section 1. The Participating Employer adopts the Plan and the Trust Agreement (“Trust”) for the Plan for its Employees.

Section 2. The Participating Employer acknowledges that the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan (“Trustees”) are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

Section 3. The Participating Employer hereby adopts the terms of the Adoption Agreement and any Addendum, which is attached hereto and made a part of this resolution. The Adoption Agreement (and, if applicable, the Addendum) sets forth the Employees to be covered

by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Adoption Agreement and any Addendum, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.

Section 4.

(a) The Participating Employer shall abide by the terms of the Plan and the Trust, including amendments to the Plan and the Trust made by the Trustees of the Plan, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.

(b) The Participating Employer accepts the administrative services to be provided by GMA and any services provided by a Service Manager as delegated by the Trustees. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' account.

Section 5.

(a) The Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- (iii) A resolution must be adopted terminating its participation in the Plan.
- (iv) The resolution must specify when the participant will end.

The Trustees shall determine whether the resolution complies with the Plan, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distribution under the Plan of existing accounts to Participants will be made in accordance with the Plan.

(b) The Participating Employer acknowledges that the Plan contains provisions for involuntary Plan termination.

Section 6. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 7. This resolution and the Adoption Agreement (and any Addendum) shall be submitted to the Trustees for their approval. The Trustees shall determine whether the resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plan. The Trustees may refuse to approve an Adoption Agreement (and any Addendum) by an Employer that does not have state statutory authority to participate in the Plan. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Adoption Agreement (and any Addendum) are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Governing Authority on February 1, 2010, in accordance with applicable law.

City Manager Dunn read the Resolution in its entirety. Council Member Hunt motioned to adopt the Resolution as read, seconded by Mayor Pro tem Seymour and the motion passed unanimously.

Council Member Butler introduced the following Resolution:

RESOLUTION OF THE CITY OF ELBERTON

WHEREAS: There currently exists a vacancy on the Elberton Downtown Development Authority (DDA) board of directors; and

WHEREAS: O.C.G.A. Section 36-42-6 allows the governing body of the municipal corporation to appoint directors of the DDA by resolution; and

WHEREAS: The Mayor and five Council Members of the City of Elberton constitute the governing body pursuant to that state law O.C.G.A. Section 36-42-3; and

WHEREAS: The Mayor respectfully submits to the Council the name of Ms. Beth Davis to be considered for the position of a director of the DDA; and

WHEREAS: Ms. Beth Davis meets the qualifications of being a director of the Elberton DDA in that certain state law O.C.G.A. Section 36-42-7, being that Ms. Davis is (a) a resident of the municipal corporation, and (b) a person who has an economic interest in the redevelopment and revitalization of the downtown development area.

NOW, THEREFORE, the Mayor and Council of the City of Elberton hereby appoint Beth Davis to the position of director of the Elberton DDA to an unexpired term that ends on June 30, 2013.

RESOLVED this 1st day of February, 2010.

City Manager Dunn read the Resolution in its entirety. Mayor Guest stated that the recommendation came from the Downtown Development Authority. Mayor Pro tem Seymour motioned to adopt the Resolution as read, seconded by Council Member Paul and the motion passed unanimously.

Mayor Pro tem Seymour asked to remove item 4 to discuss further. Mayor Guest removed item 6 to discuss further. Mayor Pro tem Seymour motioned to approve the consent agenda as amended, seconded by Council Member Hunt and the motion passed unanimously.

1. Approved expenditures that exceed the City Manager's purchasing authority as follows:

Elberton Utilities – Natural Gas Division

Ditch Witch RF36 Trencher

| | | |
|---------------------|-------------|-------------|
| • Ditch Witch of GA | Recommended | \$49,227.71 |
| • Ditch Witch of NC | | \$54,384.00 |
| • Ditch Witch of TN | | No Response |

Recommendation based on low bid

Public Works

Cutting, chipping, and clearing of Lake Bed Property in preparation of the Granite City Trail extension. To reclaim area including creek banks.

| | | |
|-------------------|-------------|-------------|
| • NaturChem, Inc. | Recommended | \$14,400.00 |
|-------------------|-------------|-------------|

SPLOST project

ElbertonNET

Headend equipment (laser, receivers, amplifiers, and chassis) to activate 8 new nodes in the 2010 Expansion Project

| | | |
|-------------------------------|-------------|-------------|
| • Reliable Broadband Resource | Recommended | \$34,388.52 |
| • MSI CaTV | | \$41,306.02 |

Recommendation based on low bid

Elberton Utilities – Electric Division

86 Poles for next 2 conversion projects on 4 kV circuit, plus stock.

| | | |
|------------------|-------------|-------------|
| • Cox Industries | Recommended | \$16,391.16 |
|------------------|-------------|-------------|

Electric Cities of GA Joint Purchasing Bid#10-007

2. Approved dues, travel and training for all city departments as follows:

City Clerk

Cindy Churney

Clerks Recertification Program
 Elections & Human Resources 12 hours
 Athens, GA
 Feb. 22-23, 2010
 Registration: \$400.00

Athens, GA
 Feb. 23, 2010
 Registration: \$200.00

Main Street

Sissie Herring
 GA Academy for Economic Development
 Certification Program
 Athens, GA
 Feb. 11, March 11, April 8 & May 6, 2010
 Registration: \$195.00

Finance

Kevin Eavenson
 Finance Officers Certification Program
 Advanced Excel 6 hours

Public Works

James Adams, Buster Webb & Shun Allen
25th Annual Mid-Winter Equipment Show
GA Chapter, American Public Works
Perry, GA
February 3, 2010
No-Cost

Utilities- Water

Caleb Wallace
Basic Water
Doraville, GA
February 21-26, 2009
Registration: \$ 395.00

Travel: \$ 650.63

Electric

John Creason
Groundman School
Newnan, GA
February 1-5, 2010
Registration: None
Travel \$480.96

Police

Jimmy Jordan, Joe McGuffin & Dan White
Radar Recertification: 4 hours
Walton, GA
February 12, 2010
Registration Fee: None
Meals: \$75.00

Luke Mize
Taser Instructor Course 16 hours
Ringgold, GA
March 10-11, 2010
Registration Fee: \$395.00

Lodging/Meals: \$225.00

Kyle Dodson & Walt Blackmon
Criminal Procedure Intermediate 40 hours
Forsyth, GA
March 8-12, 2010
Registration Fee: None
Meals: \$400.00

Allen Lee
Contemporary Issues for Law Enforcement Professionals: 4 hours
Toccoa, GA
March 17, 2010
Registration Fee: None
Meals: \$15.00

Sam Hill, Stephanie Hughes, Jeff Hunt & Mark Welsh
Radar Recertification: 4 hours
Toccoa, GA
March 18, 2010
Registration Fee: None
Meals: \$75.00

Darin Rucker & Scott Marunich
Crime Scene Technician 40 hours
Lawrenceville, GA
April 5-9, 2010
Registration Fee: None
Meals: \$400.00

Mike Seymour & Darin Rucker
Radar Recertification 4 hours
Royston, GA
April 13, 2010
Registration Fee: None
Meals: \$45.00

3. Accepted a donation from the Coggins Granite Welfare Foundation, Inc., for the Elberton Police Department in the amount of \$2,000.00.
4. Authorization for the Mayor and/or City Manager to execute the necessary documents to accept the Edward Byrne Memorial Justice Assistance Grant in the amount of \$22,584 for a patrol car in the Elberton Police Department was removed by Mayor Pro tem Seymour for further discussion.
5. Authorized the City Manager and Finance Director to direct MEAG Power to deposit Municipal Competitive Trust credits for 2010 into the New Generation and Capacity Funding Account (72.3%) and the Flexible Operating Account (27.7%).

6. The board appointments were removed by Mayor Guest for further discussion.
7. Authorized the issuance of an Alcoholic Beverage License to Jose Luis Suarez Cerda of El Corral located at 235 Elbert Street.

Mayor Pro tem Seymour motioned to adopt the Resolution as read, seconded by Council Member Paul and the motion passed unanimously.

Mayor Pro tem Seymour recommended utilizing the same criteria as set previously when requesting bids for police vehicles. Mayor Pro tem Seymour motioned to authorize the Mayor and/or City Manager to execute the necessary documents to accept an Edward Byrne Memorial Justice Assistance Grant in the amount of \$22,584 for a patrol car in the Elberton Police Department, seconded by Council Member Hunt and the motioned passed unanimously.

Mayor Guest recommended the re-appointment of Judy Waters to the Historic Preservation Commission and the re-appointment of Jackson McConnell to the Development Authority of Elbert County, Elberton and Bowman. He stated that he was unable to finalize the appointment to the Elberton Planning Commission and wished to pull the item until the March meeting. Council Member Paul motioned to concur with the Mayor's appointments as stated above, seconded by Council Member Butler and the motion passed unanimously.

City Manager Dunn presented the monthly reports and activities of the various departments to Council.

Mayor Guest asked Council to consider rescheduling the Monday, February 22 Work Session to Thursday, February 18 at Noon due to scheduling conflicts. The date and time change would only be for this month. Council was in agreement with the date and time change for February.

There being no further business to come before Council, upon proper motion and second the meeting was adjourned.

Mayor

ATTEST:

City Clerk