

CITY OF ELBERTON
REGULAR MEETING OF THE MAYOR AND COUNCIL
Monday, March 7, 2016 – 5:30 p.m.

Pursuant to due call and notice thereof the meeting of the Mayor and Council convened at 5:30 p. m. on Monday, March 7, 2016 in Council Chambers of the Municipal Building, 203 Elbert Street with Mayor Guest presiding.

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

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

Council Member Seymour motioned to approve the minutes of the February 1 meeting, seconded by Council Member Colquitt and the motion passed unanimously (Butler, Colquitt, Hunt, Prince, Seymour).

Controller Kevin Eavenson presented the Financial Report through January 2016 is enclosed for review.

General Fund	\$ 4.8 million
Combined Utilities Fund	\$ 30.7 million
Elberton Technology Services Fund	\$ 1.3 million
Solid Waste Fund	\$ 38,388 net loss
Unrestricted Investments-General Fund and Utility Fund	\$ 7.9 million
Restricted Investments (SPLOST & Utility Funds)	\$ 2.9 million

Mrs. Mary Clark thanked Council on behalf of the MLK Committee for their financial support this year and asked to be considered in the budget next year. Council Member Colquitt requested City Attorney Jenkins to research records needed from non-profit organizations with regard to the City providing funding.

Council Member Colquitt 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 due the expired terms; 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 names of Mr. Willie Hall and Ms. Toshia Dunbrack to be considered for appointment as directors of the DDA; and

WHEREAS, the appointees continue to meet 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 each of the above stated qualifies as a (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 Mr. Willie Hall and Ms. Toshia Dunbrack as a director of the Elberton DDA, term to end June 30, 2017.

City Manager Dunn read the Resolution in its entirety. Council Member Butler motioned to adopt the Resolution as read, seconded by Council Member Hunt and the motion passed unanimously (Butler, Colquitt, Hunt, Prince, Seymour).

Council Member Butler 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;

WHEREAS, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering matching contributions;

WHEREAS, the Participating Employer has reviewed the Georgia Municipal Association ("GMA") Defined Contribution Plan ("Plan"), as amended and restated effective as of January 1, 2012;

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;

WHEREAS, the Participating Employer is an Employer as defined in the Plan;

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

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

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. 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 2007-44 and Revenue Procedure 2011-49. The Participating Employer understand 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 approved 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 the 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 2011-49; 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 understand 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 laws.

- (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' 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 participation 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, distributions 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.

City Manager Dunn read the Resolution in its entirety. Council Member Hunt motioned to adopt the Resolution as read, seconded by Council Member Seymour and the motion passed unanimously (Butler, Colquitt, Hunt, Prince, Seymour).

Mayor Guest removed consent agenda item G4 Authorization to issue an on-premises consumption of beer to Maria Samuel of Bay 6 located at 4 N. McIntosh Street. Mayor Guest stated that the fingerprinting process has changed and was not in place prior to the meeting. The item will be considered at the April meeting.

Council Member Butler motioned to approve the consent agenda as amended, seconded by Council Member Seymour and the motion passed unanimously (Butler, Colquitt, Hunt, Prince, Seymour).

1. Approved the expenditures that exceed the city manager's purchasing authority.
2. Accepted the minutes, decisions and recommendations of the Elberton Planning Commission meeting of February 15, 2016.
3. Accepted the Mayor's reappointments to the Elberton Housing Authority Board.
4. Authorization to issue an On-premises consumption of beer/malt to Maria Samuel of Bay 6 located at 4 N. McIntosh Street. Removed, see above.

City Manager Dunn presented the following reports:

- Monthly report on the activities of various departments

Mayor Guest asked for a motion to move into executive session for the purpose of consulting and meeting with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the authority or any officer or employee or in which the authority or any officer of employee may be directly involved as permitted by O.C.G.A. 50-14-3(b). Council Member Prince motioned to close the meeting and move into executive session, seconded by Council Member Hunt and the motion passed unanimously (Butler, Colquitt, Hunt, Prince, Seymour).

Council Member Colquitt motioned to move out of executive session and reconvene the regular meeting, seconded by Council Member Hunt and the motion passed unanimously (Butler, Colquitt, Hunt, Prince, Seymour). Mayor Guest announced no decisions were made in the Executive Session.

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