

**CITY OF ELBERTON
PUBLIC HEARING & REGULAR MEETING OF THE ELBERTON
MAYOR AND COUNCIL**

Monday, September 14, 2009 – 5:30 p.m.

Pursuant to due call and notice thereof the Regular Meeting of the Mayor and Council of the City of Elberton convened at 5:30 p.m. on Monday, September 14, 2009, in the council chambers of the Municipal Building, 203 Elbert Street with Mayor Guest presiding.

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

Mayor Guest called the Public Hearing to order. The purpose of the hearing was to hear comments from the alcoholic beverage license holder that violated the alcoholic beverage ordinance August 13 and August 14. Major David Cleveland with the Elbert County Sheriff's Office stated that the department had received numerous complaints involving the One Stop store selling alcoholic beverages to minors. During an undercover operation, a minor was able to purchase energy drinks containing alcohol on two separate occasions. Attorney Steve Jenkins represented the owner Kartikey M. Patel. He stated that Mr. Patel was not aware that the energy drinks contained alcohol. He stated that the distributor stocks the shelves for the store. He also stated that the energy drinks containing alcohol and the ones that do not contain alcohol are very similar in appearance and difficult to distinguish between. Mayor Guest informed the owner that Council would be discussing the item later in the meeting. Mayor Guest adjourned the Public Hearing.

Mayor Guest called the regular meeting to order at 5:54 p.m. Mayor Pro tempore Paul led the assembly in the Pledge of Allegiance and City Attorney Phelps led the assembly in prayer.

Council considered the minutes from the July 27, Work Session and August 3, Regular Meeting. Council Member Colquitt motioned to approve the minutes, seconded by Council Member Hunt and the motion passed unanimously.

Reports. Controller Kevin Eavenson presented the Financial Report through June 30 2009 with the following net assets:

General Fund	\$ 4.2 million
Combined Utilities Fund	\$ 19.7 million
Elberton Technology Services Fund	\$ 1.8 million net loss
Solid Waste Fund	\$ 218,321
Unrestricted Investments-General Fund and Utility Fund	\$ 2.6 million
Restricted Investments (SPLOST & Utility Funds)	\$ 510,769

Speakers from the floor.

- Rev. John Barnett requested to speak on behalf of the Granite City Cook Off. Mayor Pro tempore Paul motioned to hear Rev. Barnett speak, seconded by Council Member Hunt and the motion passed unanimously. Rev. Barnett thanked Council for their participation in the Cook Off. Mayor Guest thanked his teammates Carey Butler, Troy Colquitt and Cindy Churney for their hard work. He commented that Bob Paul was sick and Bobby G. Hunt and Joel Seymour were out of town.
- Mrs. Jacqueline (Jackie) Hamm requested to speak to Council with regard to a request to de-annex her property located at 310 Miller Drive. Council Member Colquitt motioned to hear Mrs. Hamm speak, seconded by Mayor Pro tempore Paul and the motion passed unanimously. Mrs. Hamm requested Council re-consider her request to de-annex her property in order for her to open a business on the property. No action was taken by Council.

Mayor Pro tempore Paul placed Ordinance 2158 on second reading as follows:

ORDINANCE 2158

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING ORDINANCE OF SECTION 22, LAND USE; PERTAINING TO PERSONAL CARE HOMES AS AUTHORIZED BY AN ACT OF THE GENERAL ASSEMBLY OF GEORIGIA (GEORGIA LAW. 1957, PAGES 420-443); AND FOR OTHER PURPOSES

Mayor Pro tempore Paul motioned to waive the reading of the Ordinance, seconded by Council Member Hunt and the motion to waive passed unanimously. City Manager Dunn read the heading of the Ordinance. Mayor Pro tempore Paul motioned to adopt the Ordinance as presented, seconded by Council Member Hunt and the motion to adopt passed unanimously.

Council Member Butler introduced the following Resolution for second reading:

RESOLUTION

WHEREAS: A certain Parcel of land consisting of 3,250 square feet, more or less, located adjacent to the Elberton Recycling Center, part of Elbert County Tax Map E18, Parcel 118 (attachment "A"), is no longer of any value to the City of Elberton; and

WHEREAS: Said property is more particularly described as follows: Point of beginning where Elbert County Tax Map E-18, Parcel 118, intersects with Elbert County Tax Map E18, Parcel 118A, and Tribble Street; thence in a southeasterly direction along the boundary lines of parcels 118 and 118A for a distance of 130.01 feet, more or less to the rights-of-way of Martin Luther King, Jr. Blvd; thence in a southwesterly direction along the rights-of-way for a distance of 25

feet; thence in a northwesterly direction for a distance of 140 feet, more or less to the eastern rights-of-way of Tribble Street; thence in a northeasterly direction along the rights-of-way for a distance 25 feet to the point of beginning.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Elberton that the above property, described further as a part of Elbert County Tax Map E18, Parcel 118, and being of no further value to the City be declared as surplus property.

BE IT FURTHER RESOLVED that the City shall solicit sealed bids for the purchase of this property with the minimum bid amount being \$3,859, and that the purchaser shall pay all legal and survey costs to effect the sale.

Council Member Butler motioned to waive the reading, seconded by Council Member Seymour and the motion to waive passed unanimously. City Manager Dunn read the heading of the resolution. Council Member Butler motioned to adopt the Ordinance as presented, seconded by Mayor Pro tempore Paul and the motion to adopt passed unanimously.

Mayor Pro tempore Paul introduced the following Resolution:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO THE AMENDED AND RESTATED COMBINED CYCLE POWER SALES CONTRACTS; AND FOR OTHER PURPOSES

WHEREAS, MEAG Power has entered into an Amended and Restated Combined Cycle Power Sales Contract (the "Contract") with the City of Elberton (the "CC Participants"); and

WHEREAS, MEAG Power and the CC Participant have determined that it is in their respective best interest that MEAG Power have the ability to utilize a credit facility for the purpose of funding, on an interim basis, certain fuel costs, capitol costs and working capital requirements; and

WHEREAS, MEAG Power and the CC Participant have determined that it is necessary to amend the Contract in certain respects; and

NOW, THEREFORE, BE IT RESOLVED that the Mayor (the "Authorized Official") is hereby authorized and directed to execute, and the Clerk, or any Assistant Clerk, is hereby authorized and directed to attest and deliver the Amendment in substantially the form thereof that has been presented at this meeting and filed in the Minutes File of the CC Participant; and

FURTHER RESOLVED that the CC Participant hereby authorizes the Authorized Official and the Clerk, or any Assistant Clerk, to take any further actions and execute and deliver any other documents necessary to carry out the purpose of this Resolution, the Amendment and the Contract as amended from time to time.

City Manager Dunn read the resolution in its entirety. Mayor Pro tempore Paul motioned to adopt the resolution as presented, seconded by Council Member Seymour and the motion to adopt passed unanimously.

Council Member Colquitt introduced the following Resolution:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND REPLACEMENT AMENDMENT TO THE MUNICIPAL COMPETITIVE TRUST; AND FOR OTHER PURPOSES

WHEREAS, MEAG Power created and established for the Beneficiaries (as that term is defined in the Municipal Competitive Trust), including the City of Elberton (the “Participant”), as of January 1, 1999, a trust referred to as the Municipal Competitive Trust; and

WHEREAS, the Beneficiaries each consented to and approved a First Amendment to the Municipal Competitive Trust; and

WHEREAS, a Second Amendment to the Municipal Competitive Trust was approved by a majority of the Beneficiaries, including the Participant (the “Second Amendment”), for the purpose of providing additional flexibility pertaining to the funding of new generation projects by MEAG Power by establishing a New Generation Funding Account; and

WHEREAS, MEAG Power and the Beneficiaries, including the Participant, desire to amend the provisions of the Municipal Competitive Trust, as amended, to provide additional flexibility to the Beneficiaries as to the funding of new generation projects and capacity purchases proposed by MEAG Power, the funding of the purchase of additional entitlement share of existing MEAG Power projects and for mitigation of certain Bulk Power Supply cost increases; and

WHEREAS, to effect such amendments, MEAG Power has caused to be prepared a draft Second Replacement Amendment to the Municipal Competitive Trust (the “Amendment”) for execution by the Beneficiaries that executed the Second Amendment;

NOW, THEREFORE, BE IT RESOLVED that the Mayor (the “Authorized Official”) is hereby authorized and directed to execute, and the Clerk, or any Assistant Clerk, is hereby authorized and directed to attest and deliver the Amendment in substantially the form thereof that has been presented at this meeting and filed in the Minutes File of the Participant; and

FURTHER RESOLVED that the Participant hereby authorizes the Authorized Official and the Clerk, or any Assistant Clerk, to take any further actions and execute and deliver any other documents necessary to carry out the purpose of this Resolution, the Amendment and the Municipal Competitive Trust, as amended from time to time.

City Manager Dunn read the resolution in its entirety. Council Member Colquitt motioned to adopt the resolution as presented, seconded by Council Member Seymour and the motion to adopt passed unanimously.

Council Member Seymour introduced the following Resolution:

RESOLUTION

WHEREAS: The Mayor and Council have determined that it is in the best interest of the citizens of Elberton to amend the Official Traffic Map of the City of Elberton by amending the map in accordance with Section 36-6, traffic schedules; and

WHEREAS: It is by recommendation of staff to designate the south side of Presbyterian Lane a “No Parking” Zone, beginning at its intersection with South Oliver Street and ending at its intersection with South McIntosh Street; and

WHEREAS: Staff also recommends designating the street along the north side parking lot a “No Parking” Zone due to the street being **11 feet in width**; and

WHEREAS: This Resolution shall become part of the Official Traffic Map, which may be found on file in the City Clerks Office.

NOW, THEREFORE BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Mayor and Council designate the south side **and the north side** of Presbyterian Lane a “No Parking” Zone as described above.

BE IT FURTHER RESOLVED that the Mayor and Council direct the City Manager to have this street marked with yellow curbing upon adoption of this Resolution.

City Manager Dunn read the resolution in its entirety. Council Member Seymour motioned to adopt the resolution as presented, seconded by Council Member Colquitt. During discussion, Council Member Seymour motioned to amend the Resolution to include “**11 feet in width**” in the third paragraph and to include “**and the north side**” in the fifth paragraph, seconded by Council Member Butler and the motion to amend passed unanimously. Council adopted the amended Resolution unanimously.

Mayor Guest removed item#2 from the consent agenda. Council Member Colquitt removed item #6 from the consent agenda. Council Member Seymour motioned to approve the consent agenda as amended, seconded by Council Member Butler and the motion passed unanimously.

1. Approved the dues, travel and training for all city departments.

Mayor and Council

Joel Seymour (Conflict Resolution)
Bob Paul (Human Resources II)
GMA Fall Training
Athens, GA
October 28, 2009
Registration: 215.00 each
Travel/Lodging: None

City Marshal

Jeff Algood
Level 1 Arson Investigation
GA Public Safety Trng Ctr
Forsyth, GA
September 14-25, 2009
Registration: None
Travel/Lodging: 700.00

Police

Sam Hill & Brian Jones
Proactive Criminal Patrol
RCTA Meridian, MS
September 21-25, 2009
Registration Fee: none
Travel/Lodging: \$90.00

Mike Seymour, Darin Rucker &
Allen Lee
Prescription Drug Education
Madison County Courthouse
Danielsville, GA
October 9, 2009
Registration Fee: none
Travel/Lodging: \$45.00

Stephanie Hughes & Scott Marunich
Regional Police Academy
Augusta, GA
October 11 – 14, 2009
Registration Fee: none
Travel/Lodging: \$720.00

Municipal Court

Nancy Littleton
TAC Class
Helen, GA
September 28 - October 1
Registration: None
Travel/Lodging: \$311.00

Utilities - Water/Wastewater

Wayne Smith, Jason Hackett
Byron Stovall & William Black
Georgia Rural Water (*10 points for
each license*)
30th Annual Conference
Helen, GA
October 25-27 2009
Registration: \$ 740.00
Travel/Lodging: \$ 1,016.82

Water

Tommy Oglesby, Greg Franklin
Class II Water Treatment School
Carrollton, GA
October 5-8 2009
Registration: \$ 490.00
Lodging/Lodging: \$ 1,286.92

2. The approval of the expenditures that exceed the City Manager's purchasing authority was removed by Mayor Guest for further discussion.
3. Authorized the closing of the square to vehicular traffic on November 7 at 6:00 a.m. for the Granite City Fall Festival sponsored by Main Street Elberton Promotions Committee.
4. Accepted the Historic Preservation Design Guidelines.
5. Accepted and authorized the execution of the COPS Grant.
6. The acceptance of the new Elbert Theatre application was removed by Council Member Colquitt for further discussion.

Mayor Guest removed item#2 from the consent agenda. City Attorney Phelps stated that after the work session he checked on the performance bond requirements for public works contracts in excess of \$100,000. He stated that the bidder must provide a performance bond or an irrevocable letter of credit. Council Member Colquitt motioned to approve item #2 as submitted below, seconded by Council Member Hunt and the motion passed unanimously.

Electric Division - Capital Improvement Projects #180002ROAA and #180003ROA

Bidder	Total Bid Price	
Marable-Pirkle	\$113,304.00	Recommendation based on low bidder & work experience
Skyline	\$176,400.00	
Service Electric	\$179,000.00	
Pike	\$183,300.00	
Over & Under	\$192,345.78	

Electric Division – Wire for above 2 projects

- Power Supply Company \$31,580.20 Recommended
(MEAG Bid#09-003)

Electric Division – Poles for above 2 projects

- Ace Pole Company \$23,148.00 Recommended
(MEAG Bid)

Electric Division – Gang Operated Switches for the above 2 projects

- HD Supply Utilities \$10,450.00 Recommended
(MEAG Bid)

Council Member Colquitt removed item #6 from the consent agenda. He stated that he objected to alcohol at the theatre due to the historic past and liability. He also stated that he wanted to keep the “family atmosphere” at the theatre. Council Member Seymour stated that the same activity takes place in other establishments. Council Member Hunt concurred with Council Member Colquitt and added that the City needed to protect the facility. Council Member Butler stated that he did not envision alcohol as a part of the theatre and that it was supposed to be a family venue. Council Member Seymour motioned to accept the application as submitted, seconded by Council Member Paul and the motion failed 3-2 with Council Members Butler, Hunt and Colquitt voting against the motion and Council Members Seymour and Paul voting for the motion.

City Manager Dunn presented the following reports to Council:

- Monthly reports and activities of the various departments.
- City Manager Dunn reported that Bubba Foods construction financing project that was done in 1999 to facilitate the construction of the facility was paid off and completed in July. The deeds for the property, plant, and equipment should be transferred from MEAG Power to Bubba Foods within the next several weeks.

- City Manager Dunn thanked the team from the City who participated in the Granite City Cook Off last Saturday. The employees worked extremely hard for ElbertonNET – John McCullough, Allen Hulme and John Moon, in addition Grant Jones, Lynn Saxon, Judy Price and Tabitha Rambert assisted. This was the best promotional event that the department has ever done.

Matters to be considered by Council:

- Council discussed the Alcoholic Beverage License Ordinance violation of August 13 and 14. Mayor Pro tempore Paul motioned to treat the violation as a second offense to forfeit the current bond held by the city in the amount of \$1,000; posting of new bond in the amount of \$2,000; and payment of administrative penalty/fine of \$500.00. Council Member Butler seconded the motion and it passed unanimously. Council recommended the City Marshal notify the license holders that the energy drinks contain alcohol and is subject to the Alcoholic Beverage Ordinance.
- City Manager Dunn provided Council with information on the sidewalk on Jones Street as requested by Mayor Pro tempore Paul at the work session. The item will be discussed further at the next work session.

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