



CITY OF
Swainsboro
Crossroads of the Great South

GEORGIA



City Council Meeting

The regular meeting of Mayor and City Council was held **Monday, November 7, 2022** at 6:00 P.M. City Hall.

Members Present: Sconyers, Stafford, Parker, Collins, Davis, & Quarterman

Prayer of Invocation: Chief Randy Ellison

Pledge of Allegiance

Councilperson Davis made a motion to accept the October 3rd, October 18th, and October 24th minutes.

Motion by: Davis

Seconded: Sconyers

Vote: 6-0

Councilperson Parker made a motion to amend the agenda to allow Matthew Bright to speak.

Motion by: Parker

Seconded: Stafford

Vote: 6-0

Councilperson Sconyers made a motion to amend the agenda to discuss Wreaths across America.

Motion by: Sconyers

Seconded: Stafford

Vote: 6-0

Councilperson Davis requested that the January meeting be moved to January 9th. Mayor Bennett stated that the January meeting would be moved to January 9th, 2023.

A. Old Business:

1. Council considered adoption of 2022 rollback millage rate of 14.191. Councilperson made a motion to adopt the millage rate.

Motion by:

Seconded:

Vote: 6-0

2. Mayor Bennett informed the council that the contractor for 2021/2022 LMIG paving projects should begin work on or before November 14th.

B. New Business:

1. John McClellan with Turnipseed Engineers address the council regarding the elevated tank project. Mr. McClellan stated that the city opened bids for this project on October 27th. Mr. McClellan stated that this will replace the two offline tanks totaling 175,000-gallons that is currently in the city's system with a 500,000-gallon tank. The larger tank will provide additional capacity to sustain fire protection and addresses some pressure concerns on the west side of the city. There were two plan holders Phoenix Fabricators and Caldwell Tanks. Mr. McClellan stated that the low bid was \$2,387,248.00 and the second low bid was \$2,792,500.00. Mr. McClellan recommended that the city award to Phoenix Fabricators if the city chose to do so. Mr. McClellan stated that the city was awarded a GEFA loan grant that is available for this project and would be forfeited if the city decided not to move forward with the project. Mr. McClellan did not recommended proceeding with the project. The other option was to rebid the project. Mr. McClellan stated that in today's market it is not reasonable that you would get a better bid. Mr. McClellan stated that he talked with the contractor about it, and they do not perceive that anything will go down. Mr. McClellan stated that the city could go back to GEFA for additional loan funds if they would like to proceed with the project. Mr. McClellan stated that he had spoken with the city clerk regarding another funding option, and they have submitted at the request of the clerk at no cost to the city. Mr. McClellan stated they the city could wait for a decision from the additional funding option. Mayor Bennett asked

Motion by: Sconyers Seconded: Parker Vote: 6-0

- The City of Swainsboro is an equal opportunity employer and provider.**

this was an ongoing investigation. Chief Ellison stated that it is, and that Mr. Corley came and talked with him regarding the matter. Chief Ellison stated that Mr. Archie was going through some things with his wife, and they put things on hold for a while. Chief Ellison stated that code enforcement was going around addressing these types of issues and spoke with Mr. Archie and gave him additional time. Chief Ellison stated that the property today is nowhere near as bad of a nuisance as it was when they started this case. Chief Ellison stated that they have several cases here. City attorney, Jon Levis, stated that based on the documentation that he was provided there was a final ruling on this issue from the municipal court. Mayor Bennett stated that this is nothing that the council can vote on, and this is a police matter. Chief Ellison stated that they will enforce the ordinances that the city have passed and are in place. Councilperson Parker made a motion to cease and desist with the enforcement of accumulation of junk until the council meets again. Councilperson Davis asked if this is residential or commercial? Councilperson Parker stated residential. City attorney, Levis, stated that the fine was issued by the municipal court, and he does not think that the city has the authority to stop the enforcement of the municipal court judge's ruling. Levis asked council to consider the issue that Ms. Brantley's on Green Street. Chief Ellison stated that the 37 active cases that they have will be transferred to state court and prosecuted under state law. Council voted on Councilperson Parker motion.

Motion by: Parker Seconded: Collins
For: Parker, Collins, Quarterman, Stafford

Vote: 4-0
Against: Sconyers, Davis

10. Rita Faulkner addressed the council regarding the budget. Ms. Faulkner stated that she was aware of two lawsuits that the city had and asked if there are some more lawsuits that the city has and how does that affect the budget. City attorney, Levis, stated that there is a personal injury case that has been outstanding since 2018 and the city's insurance company is handling that case. Levis stated that the matter regarding the three council members that was filed in 2021 with regards to an injunction that had been announced dismissed at the court is still an open and pending case. Levis stated that he believed the OMI case is still open and pending until paid in full. Levis stated that off the top of his head those are the only three pending lawsuits that the city has today. Ms. Faulkner asked if Mr. Lawson's lawsuit had already been done. Levis stated that was a threat of litigation and they resolved that with the council so that has not been filed but resolved prelitigation. Ms. Faulkner stated so he never filed a lawsuit. Levis stated that they threatened a lawsuit, and they provided a spoliation letter as well as some other documents requested in preparation for litigation. Ms. Faulkner asked if the theater project and the Gumlog gym project are in this year's budget. Mayor Bennett stated that the attorney just got finished looking at the contract and as soon as he makes the changes to the contract and the contractor agrees with the terms the city will then setup a meeting with the contractor to obtain a cost so that the city can determine how much and where the funds will come from. Ms. Faulkner asked if it was in the budget. Mayor Bennett stated that there are parts of it in the budget. Ms. Faulkner stated that she was told that there were monies in the budget for the Robin Road project but when it came down to it, they had no monies in the budget. Ms. Faulkner stated that she did not want the Gumlog Gym to get lost in the sauce. Ms. Faulkner stated that she took a lot of time to get easements when there were no monies in the budget. Ms. Faulkner stated that was why she was here tonight. Councilperson Parker stated that he did not see anything budget wise for the gym or the theater. Mayor Bennett stated that some of the funds would come from ARPA. Councilperson Parker stated that with the ARPA funds you had to identify where you were going to spend that money? City attorney, Jon Levis, stated that essentially ARPA had different categories one of the categories was lost revenue. The lost revenue under ARPA allows the city to utilize those funds in normal operating expenditures of the city; however, that money does have some restrictions on it. It cannot be used to pay past due bills, it can't be used to pay existing expenditures, and there is some other stuff that I can't think of. Levis stated with regards to that, one of the issues we have with regards to the contract although the contract does address compliance with all applicable laws it doesn't spell out compliance with procurement requirement under the federal law and also it is a cost plus contract which is not permitted under federal procurement. Levis stated that if we are allocating ARPA funds to that we have to be in compliance with any procurement requirements and there are other issues. Levis stated that if we are using ARPA we need to make sure that the requirements are in the contract.

Councilperson Parker stated that since the two projects were prior to ARPA funds how can we use these funds if those two projects were prior to ARPA? Levis stated that it is a prior debt, and that the city never executed the process and incur the debt on these projects. Councilperson Parker stated that we have incurred some debt. Levis stated that ARPA is not paying for those that are already up in service. Mayor Bennett stated that we do not have any debt on those two projects. Ms. Faulkner asked if there was going to be monies in the budget for the gym and theater. Mayor Bennett stated that we have about \$375,000 from another governmental source that is going to help with the theater. Mayor Bennett stated that we have about \$85,000 in another source that was apart of donations and another source of about \$400,000 that we are trying to figure out how much percentage of that we can spend on the theater for tourism. Mayor Bennett stated that is going to leave a balance of around \$400,000 that we might can use from ARPA. Mayor Bennett stated we have a governmental source that is going to donate around \$150,000 for the gym project and if we can use the \$400,000 ARPA funds this will give us monies for the gym and theater projects. Ms. Faulkner asked council to make sure these two projects are funded.

11. Police Chief Randy Ellison presented the council with a check for the 2022 COPS hiring grant. Chief Ellison stated that each year the Department of Justice provide very competitive grants. Chief Ellison stated that this year the City Administrator Kirby and myself applied for the COPS Hiring grant through the Department of Justice. Chief Ellison stated that, we received notice that we received a grant in the amount of \$316,653.00 for the city.
12. Council considered the memorandum of understanding regarding the East Georgia Regional Airport. City attorney, Jon Levis, stated that this was sent to Jerry Cadle. Levis stated that Jerry asked him to add in a provision that all the income from the airport as well as the taxes will be deposited into a segregated bank account to be used for the operation of the airport. Levis stated that they are looking at doing this by the end of the year. Councilperson Davis asked if this was just a rough draft. Levis stated that if council approved this it will be sent over to the county for approval. Councilperson Davis made a motion to approve the memorandum of understanding on the airport.
Motion by: Davis Seconded: Stafford Vote: 6-0
13. Council discussed the 2023 budget. Council was presented with two budgets one with no increase on water, sewer, and residential garbage and another budget with a 3% increase on these items. The clerk stated that the budget with no increase had some items removed from the wastewater treatment plant, sewer and water repairs line items and these items could be paid out of ARPA funds. City clerk stated that a 3% increase would be result in an approximately \$1.25 increase on a minimum monthly utility bill. Mayor Bennett stated that council needs to decide which budget they want to proceed with for advertising. Councilperson Sconyers made a motion to advertise the 3% increase budget. Councilperson Davis seconded the motion. Vote was 3:3. Mayor Bennett requested that the 2023 budget with no increase be advertised.
14. Matthew Bright stated that citizens should not have to come to city hall and pay a fee to obtain information regarding the city. Mr. Bright asked about an update on his drainage issue. The city clerk stated that the engineer has went out and looked at all three drainage issues. The clerk stated that an email was sent out to the mayor and council to schedule a workshop with the engineer to discuss the recommendations regarding the issues.
15. Councilperson Sconyers discussed Wreaths Across America. Councilperson Sconyers stated that the group of veterans who work with the national organization, Wreaths Across America, puts wreaths on veterans' graves. Councilperson Sconyers stated that the community has responded very well and raised approximately \$22,000. Councilperson Sconyers stated that they are going to put approximately 800 wreaths on graves in the Emanuel County with the majority of them in the city cemetery. Councilperson Sconyers stated that they are going to mark the graves that have veterans and asked that if anyone knew of graves that are not marked to please let the group know so they can go over and place a flag to put a wreath on the grave that morning. Councilperson Sconyers stated that the shelter at the cemetery had been damage and

requested the shelter be repaired prior to this event and that the cemetery and park is clean prior to the event. Councilperson Parker asked why the damage had not already been repaired. The city clerk stated that the city received a quote and submitted to the offender's insurance for payment. The insurance company requested an itemized quote which the first contractor never provided. The city has reached out to another contractor and received another quote that has been provided to the insurance company. The city is currently waiting on a response from the insurance company's adjuster. Councilperson Sconyers made a motion to proceed with repairing the structure and seek payment from the offender's insurance company or directly from the offender.

Motion by: Sconyers

Seconded: Parker

Vote: 6-0

16. Councilperson Collins stated that there are some other drainage problems in the DeAlva area. Mayor Bennett stated that he has already spoken with Chris Morton regarding the issue.
17. Councilperson Collins congratulated the Swainsboro High School football team for being region champs.

C. Committee Reports:

1. None

D. Executive Session:

Councilperson Sconyers made a motion to go into executive session to discuss employment exception pursuant to O.C.G.A. 50-14-3(b)(2) and attorney-client privilege regarding pending litigation O.C.G.A. 50-14-2(1).

Motion by: Sconyers

Seconded: Stafford

Vote: 6-0

CLOSING MEETING AFFIDAVIT

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths, the undersigned, who, after being duly sworn, depose and on oath state the following:

- (1) The Mayor/ Mayor Pro Tem was the presiding officer of a meeting of the Swainsboro City Council held on the 7th day of November, 2022.
- (2) That it is our understanding that O.C.G.A. § 50-14-2 provides as follows:

"This Chapter shall not be construed so as to repeal in any way:

(1) The attorney-client privilege recognized by state law to the extent that a meeting otherwise required to be open to the public under this chapter may be closed in order to consult and meet 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 agency or any officer or employee or in which the agency or any officer or employee may be directly involved; provided, however, the meeting may not be closed for advice or consultation on whether to close a meeting; and

(2) Those tax matters which are otherwise made confidential by State law."

And that O.C.G.A. § 50-14-3 (a) provides as follows:

"This chapter shall not apply to the following:

- (1) Staff meetings held for investigative purposes under duties or responsibilities imposed by law;
- (2) The deliberations and voting of the State Board of Pardons and Paroles; and in addition such board

may close a meeting held for the purpose of receiving information or evidence for or against clemency or in revocation proceedings if it determines that the receipt of such information or evidence in open meeting would present a substantial risk of harm or injury to a witness;

(3) Meetings of the Georgia Bureau of Investigation or any other law enforcement or prosecutorial agency in the state, including grand jury meetings;

(4) Adoptions and proceedings related thereto;

(5) Gatherings involving an agency and one or more neutral third parties in mediation of a dispute between the agency and any other party. In such a gathering, the neutral party may caucus jointly or independently with the parties to the mediation to facilitate a resolution to the conflict, and any such caucus shall not be subject to the requirements of this chapter. Any decision or resolution agreed to by an agency at any such caucus shall not become effective until ratified in a public meeting and the terms of any such decision or resolution are disclosed to the public. Any final settlement agreement, memorandum of agreement, memorandum of understanding, or other similar document, however denominated, in which an agency has formally resolved a claim or dispute shall be subject to the provisions of Article 4 of Chapter 18 of this title;

(6) Meetings:

(A) Of any medical staff committee of a public hospital;

(B) Of the governing authority of a public hospital or any committee thereof when performing a peer review or medical review function as set forth in Code Section 31-7-15, Articles 6 and 6A of Chapter 7 of Title 31, or under any other applicable federal or state statute or regulation; and

(C) Of the governing authority of a public hospital or any committee thereof in which the granting, restriction, or revocation of staff privileges or the granting of abortions under state or federal law is discussed, considered, or voted upon;

(7) Incidental conversation unrelated to the business of the agency; or

(8) E-mail communications among members of an agency; provided, however, that such communications shall be subject to disclosure pursuant to Article 4 of Chapter 18 of this title.”

(3) Close Executive Sessions are permitted pursuant O.C.G.A. § 50-14-3(b) for:

“(1) Meetings when any agency is discussing or voting to:

(A) Authorize the settlement of any matter which may be properly discussed in executive session in accordance with paragraph (1) of Code Section 50-14-2;

(B) Authorize negotiations to purchase, dispose of, or lease property;

(C) Authorize the ordering of an appraisal related to the acquisition or disposal of real estate;

(D) Enter into a contract to purchase, dispose of, or lease property subject to approval in a subsequent public vote; or

(E) Enter into an option to purchase, dispose of, or lease real estate subject to approval in subsequent public vote.

No vote in executive session to acquire, dispose of, or lease real estate, or to settle litigation, claims, or administrative proceedings, shall be binding on an agency until a subsequent vote is taken in an open meeting where the identity of the property and the terms of the acquisition, disposal, or lease are disclosed before the vote or where the parties and principal settlement terms are disclosed before the vote;

(2) Meetings when discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee or interviewing applicants for the position of the executive head of an agency. This exception shall not apply to the receipt of evidence or when hearing argument on personnel matters, including whether to impose disciplinary action or dismiss a public officer or employee or when considering or discussing matters of policy regarding the employment or hiring practices of the agency. The vote on any matter covered by this paragraph shall be taken in public and minutes of the meeting as provided in this chapter shall be made available. Meetings by an agency to discuss or take action on the filling of a vacancy in the membership of the agency itself shall at all times be open to the public as provided in this chapter;

(3) Meetings of the board of trustees or the investment committee of any public retirement system created by or subject to Title 47 when such board or committee is discussing matters pertaining to investment securities trading or investment portfolio positions and composition;

(4) Portions of meetings during which that portion of a record made exempt from public inspection or disclosure pursuant to Article 4 of Chapter 18 of this title is to be considered by an agency and there are no reasonable means by which the agency can consider the record without disclosing the exempt portions if the meeting were not closed; and

(5) Meetings when discussing or deliberating upon cybersecurity plans, procedures, and contracts regarding the provision of cybersecurity services. No vote in executive session to enter into a cybersecurity contract shall be binding on an agency until a subsequent vote is taken in an open meeting where the identity of the contractor and the terms of the agreement that are not subject to paragraph (25) of subsection (a) of Code Section 50-18-72 are disclosed before the vote.”

(4) The subject matter of the closed meeting or closed portion of the meeting held on the 7th day of November 2022, which was closed for the purpose of:

- ☒ **ATTORNEY-CLEINT PRIVILEGE REGARDING PENDING LITIGATION**
 - O.C.G.A. § 50-14-2(1)**
- ☐ **TAX MATTERS PURSUANT TO O.C.G.A. §50-14-2(2)**
- ☐ **STAFF MEETING HELD FOR INVESTIGATION PURSUANT TO O.C.G.A. §50-14-3(a)(1)**
- ☐ **DELIBERATION AND VOTING OF THE STATE BOARD OF PARDONS AND PAROLE PURSUANT TO O.C.G.A. §50-14-3(a)(2)**
- ☐ **LAW ENFORCEMENT AGENCY OR PROSECUTIONSL AGENCY O.C.G.A. §50-14-3(a)(3)**
- ☐ **MEDIATION EXCEPTION PURSUANT TO O.C.G.A. § 50-14-3(a)(5)**
- ☐ **HOSPITAL MEETINGS EXCEPTION PURSUANT TO O.C.G.A. § 50-14-3(a)(6)**
- ☐ **INCIDENTIAL CONVERSATION EXCEPTION PURSUANT TO O.C.G.A. § 50-14-3(a)(7)**
- ☐ **SETTLEMENT EXCEPTION PURSUANT TO O.C.G.A. § 50-14-3(b)(1)(A)**
- ☐ **PROPERTY NEGOTIATIONS PURSUANT TO O.C.G.A. § 50-14-3(b)(1)(B)**
- ☐ **APPRAISAL EXCEPTION PURSUANT TO O.C.G.A. § 50-14-3(b)(1)(C)**
- ☐ **CONTRACT EXCEPTION PURSUANT TO O.C.G.A. § 50-14-3(b)(1)(D)**
- ☒ **EMPLOYMENT EXCEPTION PURSUANT O.C.G.A. § 50-14-3(b)(2)**
- ☐ **PUBLIC RETIREMENT SYSTEM PURSUANT TO O.C.G.A. §50-14-3(b)(3)**
- ☐ **PROTECTION OF EXEMPTION PORTIONS OF RECORD PURSUANT TO O.C.G.A. § 50-14-3(b)(4)**
- ☐ **CYBERSECURITY EXCEPTION PURSUANT TO O.C.G.A. § 50-14-3(b)(4).**

(5) This affidavit is being executed for the purpose of complying with the mandate of O.C.G.A. 50-14-4(b) that such an affidavit be executed.

This 7th day of November, 2022.

Greg Bennett, Mayor

Julian Sconyers - Council Person

Johnny Ray Stafford – Council Person

Bobbie Collins – Council Person

John E. Parker – Council Person

D. J. Davis – Council Person

Gregory Quarterman– Council Person

Sworn to and subscribed before me this

7th day of November, 2022.

NOTARY PUBLIC

My commission expires: _____

Councilperson Sconyers made a motion to return to regular session.
Motion by: Sconyers Seconded: Parker Vote: 6-0

Council considered a motion presented by city attorney, Jon Levis, for the city to pay 3 years back with interest at 3.25% from the payment date of employees under a regular rate of pay to include insurance. To pay that through with interesting through December 15th, 2022. For the future pay with overtime to include insurance payments that are payments in lieu of in the calculation of overtime and for those to be reported on the checks the via line items which would be W2. There is a sheet which indicates the payments that my office has prepared, and payments will be based on those calculations and that was emailed to everybody earlier today. Councilperson Parker made the motion.
Motion by: Parker Seconded: Davis Vote: 6-0

Councilperson Parker made a motion to adjourn.
Motion by: Parker Seconded: Stafford Vote: 6-0

Submitted: *Melissa Kirby*, City Administrator