



CITY OF
Swainsboro
Crossroads of the Great South

GEORGIA



City Council Meeting

May 16, 2022

The regular meeting of Mayor and City Council was held **Monday May 16, 2022**
at 6:00 P.M. City Hall.

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

Quarterman arrived after the motion to accept the minutes from the May 2nd meeting.

Prayer of Invocation: David J. Davis

Pledge of Allegiance

Councilperson Sconyers made a motion to accept the May 16th minutes.

Motion by: Sconyers

Seconded: Stafford

Passed 5-0

A. Old Business:

1. Rita Faulkner addressed the council regarding Robin Road. Faulkner stated that there were monies in the budget in prior years for the Robin Road Project. Faulkner further stated that the city hired Carter & Sloope to give the city suggestions as to what the city could do about the Robin Road Project. Faulkner stated that out of the three proposed options that Carter & Sloope provided, the council had voted to select proposal #3. Faulkner stated that council had asked the former city administrator to send the project out for bid. Faulkner stated that the former city administrator came back and told council that he had sent the project out for bid two times and had not received any bids back. Faulkner stated that the city does not have a file for the Robin Road Project. Faulkner stated that the city has no way of knowing if the former city administrator sent the project out for bids since the city does not have a file containing this information. Faulkner stated that her request is for the council to send this project out for bid and budget funding for this project in the upcoming year's budget. Councilperson Sconyers stated that this is an illegal project. City attorney Jon Levis stated that he provided a letter regarding this matter on March 29, 2022. Levis stated that as a general rule the city is not required to do work on third party property unless they are the cause of that. Councilperson Sconyers stated that Clearwater Solutions had been maintaining the ditch and asked had the city had any complaints from the residents. The clerk stated that the city had not had any recent complaints. Mayor Bennett asked Chris Morton if there have been any issues since he had returned to work at the Swainsboro project. Morton stated that since the ditch had been maintained on a regular basis there has not been any complaints about the area. Faulkner asked Morton had he spoken with any of the residents in the area. Morton stated he had not spoken with anyone in that area. Mayor Bennett stated he has not had any complaints since he was elected. Bennett stated that the property is in a flood zone. Councilperson Parker stated that council had voted on this to be done 6-0. Parker asked why some of the ARPA monies could not be appropriated for this project. Parker made a motion to place this project out for bid and that it be paid out of the ARPA monies. Councilperson Collins seconded the motion made by Councilperson Parker. City attorney Jon Levis stated that in his March 29th letter: (1) that there is a flood plain, (2) there is work that can be possibly beneficial or possibly detrimental to the homeowners, (3) based on the information available to Levis there has not been a formal determination of the cause of the flooding, and/or if the city is responsible for that or if it is a preexisting issue with the property. Levis stated that a qualified engineer would need to make a determination as to if this is an issue caused by the city or if it is a preexisting issue with the property. Levis further stated that if it is determined by a qualified engineer that the city is the cause of the issue that the city remedy the issue. Levis further stated that according to the Carter & Sloope proposal there are notes that some of the remedial

measures could cause backups in pipes of the homeowners and flood them internally. Levis stated that if the city is going to look at this issue: the city needs to identify the issue, identify the property and/or properties causing the issue, and then take remedial steps on that if it is the city's responsibility. Mayor Bennett called for a vote for Councilperson Parker's motion.

Motion by: Parker Seconded: Collins Vote: 2-3
For: Parker, Collins Against: Davis, Sconyers, Stafford
Councilperson Quarterman abstained due to conflict of interest.

Councilperson Stafford made a motion to accept bids for an engineer to make a determination on the cause of the issues in the Robin Road area.

Motion by: Stafford Seconded: Davis Vote: 4-1
For: Stafford, Davis, Parker, Collins Against: Sconyers
Councilperson Quarterman abstained due to conflict of interest.

2. Chris Morton with Clearwater Solutions addressed the council with an update on the progress of the grinding at the inert landfill. Morton stated he was working with the contractor for a quote to present to council for a maintenance program for routine grinding at the inert landfill.

B. New Business:

1. Candace Daniel addressed the council regarding the zoning on property she owns on Meadowlake Parkway. Mayor Bennett turned the meeting over to the Mayor Pro Tem Collins due to a conflict of interest. Building Inspector Bruce Kirby stated that according to the planning and zoning map Daniel's property is not zoned. Kirby stated that the property needs to be zoned. Daniel requested that the city de-annex map & parcel #077018A. Kirby stated that if the property stays in the city, his recommendation would be to subdivide the parcel. Kirby further recommended that the section facing Old Nunez Road would need to be zoned residential and the section facing Meadowlake Parkway be zoned M4. Councilperson Sconyers stated that if the property is in the city that it needs to be zoned. City Attorney Jon Levis stated that according to the city zoning ordinance it indicates that the zoning map of 1997 would be the controlling document. Levis stated that based on the zoning ordinance, if there are any changes to the property you would be required to take that to the planning commission and the planning commission has 45 days to make a recommendation to the city. The city then must advertise it for a period of not more than 45 days and not less than 15 days in the newspaper. Levis stated the question is whether it is a zoning change, amendment, or if this is an actual allocation of zoning. Levis stated he would tend to side on the error of caution and say this is a change in the zoning from nothing to something. Levis further stated that if we are looking for a de-annexation that is a different question and the city would have to address that at a different time. Councilperson Stafford asked Kirby had the zoning committee meet on this. Kirby stated the committee had meet and decided that the property was in the city but not zoned. Councilperson Parker made a motion to do what is needed to de-annex the property. Councilperson Parker stated that this issue needs to be sent back to the planning and zoning board for de-annexation. Daniel stated that she doesn't want any of the property residential and that she wants the property combined with the parcel that is in the county. Councilperson Sconyers stated that zoning is in place to protect neighborhoods. Councilperson Sconyers made a motion to do what the zoning board has proposed to do. Mayor Pro Tem Collins asked what the first motion was. Councilperson Parker stated that the motion was to send this back to the zoning board to de-annex the property. Motion seconded by Quarterman. Councilperson Stafford stated that the zoning board is responsible for making a recommendation. Councilperson Sconyers stated that the zoning board has made a recommendation. Councilperson Davis stated that he would like the city within the next two weeks determine what the legal process is to de-annex a property. Council voted to send this back to the zoning board for de-annexation.

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

2. Mayor Bennett stated that item number two on the agenda will be postponed until the next meeting at the request of Chris Morton with Clearwater Solutions.

3. Council considered going back to only one regularly scheduled meeting per month. Motion was made by Councilperson Davis.
Motion by: Davis Seconded: Stafford Vote:6-0
4. Council discussed an invoice from Delta Engineering for the theater project in the amount of \$7,000. Councilperson Sconyers made a motion to pay Delta Engineering.
Motion by: Sconyers Seconded: Stafford Vote:6-0
5. Council considered a game room license application for advertisement for Arvind R. Patel dba Kiran Inc./Mini Mart located at 905 West Main Street. Motion was made by Councilperson Parker.
Motion by: Parker Seconded: Stafford Vote:6-0
6. Council considered a game room license application for advertisement for Maheshkumar Patel dba Krishi 1502 LLC/Emanuel Discount located at 119 South Central Street. Motion was made by Councilperson Parker.
Motion by: Parker Seconded: Sconyers Vote:6-0
7. Council considered a game room license application for advertisement for Bhargav B. Patel dba Swaminarayan Krupa Inc. located at 504 East Main Street. Motion was made by Councilperson Parker.
Motion by: Parker Seconded: Quarterman Vote:6-0
8. Council considered a game room license application for advertisement for Milankumar D. Patel dba MD Enterprise Inc./ Raco located at 202 East Main Street. Motion was made by Councilperson Parker.
Motion by: Parker Seconded: Sconyers Vote:6-0
9. Council considered a game room license application for advertisement for Niraj Patel dba Jaynell LLC/ABC Food Mart located at 208 North Main Street. Motion was made by Councilperson Parker.
Motion by: Parker Seconded: Quarterman Vote:6-0
10. Council considered a game room license application for advertisement for Dirav Dolatbhai Patel dba OMSAI Gateway LLC located at 350 East Main Street. Motion was made by Councilperson Parker.
Motion by: Parker Seconded: Quarterman Vote:6-0
11. Council considered a game room license application for advertisement for Piyushkumar J. Patel dba K. T.'s Place located at 636 North Main Street. Motion was made by Councilperson Parker.
Motion by: Parker Seconded: Davis Vote:6-0
12. Councilperson Sconyers made a motion to amend the agenda to discuss the streetsweeper.
Motion by: Sconyers Seconded: Stafford Vote:6-0
13. Chris Morton with Clearwater Solutions addressed the council regarding the streetsweeper that was taken to Big M Equipment to get a quote on repairs. Morton stated that a new vacuum motor is needed. The drive motor was previously repaired. Morton stated that a new motor is \$15,000 and to repair the old motor is \$10,000. Councilperson Sconyers made a motion to purchase the new motor.
Motion by: Sconyers Seconded: Stafford Vote:6-0
14. Police Chief Randy Ellison asked council to consider entertaining a motion to amend the agenda to consider hiring an animal control officer. Councilperson Stafford made a motion.
Motion by: Stafford Seconded: Davis Vote:6-0

15. Police Chief Randy Ellison requested that council consider hiring Stephanie Forsythe for animal control officer. Councilperson Stafford made a motion to hire Stephanie Forsythe.

Motion by: Stafford

Seconded: Sconyers

Vote:6-0

C. Committee Reports:

1. Building Inspector Bruce Kirby presented a recommendation from the planning and zoning committee to update the zoning map. Councilperson Davis requested that the building inspector verify that there are no other properties that are not zoned. Mayor Bennett stated that we will postpone this until the next meeting.

C. Executive Session:

1. Councilperson Davis made a motion to go into executive session.

Motion by: Davis

Seconded: Stafford

Passed 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 16th day of May, 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;

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

is (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 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 16th day of May 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 PROSECUTIONS 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 16th day of May, 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

Sworn to and subscribed before me this
16th day of May, 2022.

NOTARY PUBLIC
My commission expires: _____

Councilperson Davis made a motion to return to regular session.
Motion by: Davis Seconded: Stafford Passed 6-0

Councilperson Davis made a motion to investigate the improve capital investments on a potential city property here for the water fill station/parking.
Motion by: Davis Seconded: Parker Passed 5-0
Councilperson Sconyers abstained due to conflict of interest.

Councilperson Sconyers made a motion to authorize the payment of the current city attorney fees.
Motion by: Sconyers Seconded: Stafford Passed 6-0

Councilperson Sconyers made a motion to adjourn.
Motion by: Sconyers Seconded: Stafford Passed 6-0

Submitted: ***Melissa Kirby***, City Administrator