

December Minutes
Mayor and Council Work Session
Commerce City Hall Conference Room
December 5, 2005
6:00 P.M.

The regularly scheduled work session of the Mayor and Council was held on Monday, December 5, 2005 at 6:00 P.M. in the Commerce City Hall Conference Room, 27 Sycamore Street. The work session was called to order by Mayor Charles Hardy. City Clerk Shirley Willis called the roll and those in attendance were Mayor Charles Hardy, Mayor Pro Tem Archie Chaney, Council members Riley Harris, Donald Wilson, Mark Fitzpatrick and Richard Massey, City Manager Clarence Bryant, Gas Superintendent Jim Eubanks, Finance Director Steve McKown, Planner David Zellner, one (1) member of the press and two (2) citizens. Councilman Bob Sosebee came in at 6:35 P.M.

Mayor Charles Hardy turned the work session over to City Manager Clarence Bryant to discuss the agenda.

City Manager Clarence Bryant covered the agenda items as follows:

1. Planning Commission Hearing Items

City Manager Clarence Bryant introduced David Zellner, Planner.

- A. Plat approval for Commerce Square off Highway 98/Old Bold Springs Road.

Mr. Bryant said the plat for Commerce Square on Highway 98 below Billy Cain Mercury/Ford was approved contingent upon the receipt of the Soil/Sedimentation Control Plan.

- B. Ms. Florence Gilliam Thomas' Conditional Use request for a personal care home at 125 Huntington Lane.

City Manager, Clarence Bryant said that the lady was upset about the manner in which the meeting was held. A communication error out of City Hall advised the Planning Commission that the meeting would be held at 6:30 P.M. instead of 7:00 P.M. All planning commissioners went to the Civic Center and waited until 6:45 P.M. before leaving and some refused to return. Only two members agreed to come back for the meeting. Chairman Gregory Perry was called and the meeting was conducted by speaker phone. State Law allows a meeting to be held by teleconferencing.

The Planning Commission denied the request based upon the covenants of the subdivision. The Covenants restricted anything other than single family residential.

Councilman Bob Sosebee said he did not think that any businesses should be allowed to operate in an R-1 or R-2 zoning. It was his opinion that it would set a bad precedent should it be approved.

City Manager Clarence Bryant said a Home Occupational Business could be held in those zones; however those type businesses could not generate excessive traffic or noise.

Councilmen Mark Fitzpatrick and Donald Wilson asked if the request could be sent back to the Planning Commission. The consensus was it should not, the applicant was allowed one public hearing and the recommendation was to deny it.

Councilman Bob Sosebee stated that the uses for residential neighborhoods should be changed to not allow a business from home. City Manager Clarence Bryant said that the older neighborhoods could allow home businesses in the transitional zone from a C-1 or C-2 zone.

2. Natural Gas Main Relocations

City Manager Clarence Bryant asked Gas Superintendent Jim Eubanks to discuss the natural gas main situation that must be dealt with financially.

Gas Superintendent Jim Eubanks said the main was in the ground. The Georgia DOT says the main must be relocated in several places. The relocation request has occurred basically due to driveways. The cost to complete the relocation in numerous places over a stretch of 12-1/2 miles is approximately \$160,000. Jim had prepared detailed sheets to reflect the conditions relative to the relocations.

Councilman Bob Sosebee asked if the contractor put the line in at the right depth. Jim said he did according to plans. However; in certain areas conflicts had arisen and the lines had to be relocated to new depths according to GADOT. He said the engineering contractor missed some areas regarding the depth because he did not investigate side roads and therefore, the depths were missed.

According to both City Manager Clarence Bryant and Gas Superintendent Jim Eubanks the DOT plans are huge. Mr. Bryant stated that the conference room table would break under the load of the plans.

Jim Eubanks said that after Welker and Associates was fired, Diversified Energy was the engineering contractor. Councilman Bob Sosebee said the cost was here but the City of Commerce should ask the engineers to bear the cost of damages. Jim Eubanks said the amount in the fourth column of the printout was the amount to correct the problems. Councilman Bob Sosebee asked why the line was not put in at the depth on the plans. Gas superintendent Jim Eubanks explained that had the line been placed at the depth on the plans the cost would have been \$141,000 versus the \$136,000 to correct it now. He said that the cost would be cheaper now than if the line had been installed correctly in the beginning. He said there were 3,000 sheets of drawings, 5,000 designs and out of that the

line was 99% correct. Councilman Bob Sosebee asked if any of the incorrect depths were caused by changes in DOT plans. Jim said he could not tell that there was any discrepancy. Mr. Eubanks said that the driveways and driveway cuts were the killers on the project and the engineering firm just missed them.

Councilman Bob Sosebee said that they must be replaced and the City should go ahead and relocate and pay but to turn the matter over to John Stell for recovery. He said that Diversified Energy would have professional insurance to cover errors and omissions. Jim said he ran the cost estimate and the cost would have been \$4,760.00 more if it had been done correctly in the beginning. He said the engineer should have known. Councilman Sosebee asked if the project was completed and if the retainage had been paid. It was confirmed that the retainage had been paid with the final payment made in October.

Jim said that the project was a unit priced basis and the City of Commerce was the general contractor. A project of this volume could not be blanket bid; it must be a unit cost bid. The contractor did what they were supposed to do and had been paid. According to Jim no additional costs were estimated up front.

Councilman Bob Sosebee said if Diversified Energy did not feel they had damage why would they agree to give free service? Jim asked what the city would go after them for. City Manager Clarence Bryant said the way the line was installed it was hard to conceive how the different depths were.

Councilman Bob Sosebee said on Monday a budget amendment should be made to correct the location of the pipe and then turn the matter over to John Stell and decide who the City would sue. Councilman Donald Wilson said that Lam Hardman told him a long time ago that there were no free dinners anymore; someone would pay.

City Manager Clarence Bryant said an attempt to call the DOT Commissioner's office to seek additional funds could be made. Jim said the City had not received the check for the original assistance yet so he did not want to contact them until that was received.

Jim said several lawsuits had already been filed from residents along the relocation route. Mr. Bryant said before the project was completed there could possibly be other items to surface. Mr. Bryant said that with the modifications of the DOT plans someone would pay beside the City of Commerce.

3. Clayton Street/Central Avenue intersection/culvert replacement.

City Manager, Clarence Bryant said that on Sunday (one week ago) Roy Patrick was looking for a water leak and found a hole in the street. The street was barricaded off. The City was aware of a dripping leak for approximately two years and they had left it to see what would happen because the pipe was transite. The street remained closed and Griffin Brothers was contacted for advice because the valves would not hold. On Monday, Charles Welch of Stevenson & Palmer came and brought plans for redoing the intersection. Plans called to raise the swell on the profile to 6-61/2 feet. Stevenson &

Palmer met and discussed and the decision was made to proceed to repair according to plans. There would be three lanes at Central by widening the street. There was some severe drainage at the top of the hill. The culvert was a city project years ago but there was no support at the top. According to Mr. Bryant there had been 110 loads of dirt hauled in from the Wastewater plant and estimated cost (unit price) to repair the road was \$90,000.

Mr. Bryant said that unless the mayor and council objected SPLOST funds from the Roads and Bridges account would be used to make the repair. Mr. Bryant said in order to complete the three lanes 36' of the corner lot would be needed. The project could be put out for bids but this was an emergency situation.

Councilman Donald Wilson asked if \$90,000 would be the complete cost. Mr. Bryant said yes. Councilman Bob Sosebee asked if it was the line to the creek and Mr. Bryant said there had been a new 60' pipe installed.

The mayor and council said that the street should be fixed right. Mr. Bryant said that school buses had been rerouted and Clayton Street was a cut through street that handled a lot of traffic.

4. Auditor's Report

Stephan Wilcox of Wilcox & Bivings, P.C. would present the 2004-2005 audit at Monday night's meeting.

5. Parking Lot Construction Began - \$39,000 K.A.N. Foundations

Mr. Bryant said the bid to repair the parking lot damage adjacent to Little Ward Funeral Home was \$39,000 and the work had begun. Plans were to pour the concrete this week but the weather has caused a delay.

Mr. Bryant skipped Item 6 until the remaining items had been held.

6. Beer & Wine License Renewals

A list of the renewals would be in the agenda package. Two of the applications had not been received back into City Hall.

7. Red Cross Donations

City Manager, Clarence Bryant reported that during the three months immediately following Katrina the employees contributed from their paychecks each payroll for a period of three months. The amount of the funds submitted to the Red Cross was \$2,655.50 of which \$1,827.00 was employee contributions. The remaining balance was contributions from customers. The contributions were discontinued in November.

8. NIMS Resolution

City Manager Clarence Bryant said the resolution dealt with the Federal Homeland Security and was required to be signed by the municipality.

6. Alcoholic Beverage Ordinance

City Manager Clarence Bryant passed out copies of the ordinance as corrected. He requested that the council members bring their copies to the meeting on Monday to prevent additional copying. Councilman Bob Sosebee said Mr. Bryant brought his copy to the hospital and while he was lying in intensive care he read it.

Mr. Bryant said the committee met two times and submitted the draft ordinance to Attorney John Stell for review and/or changes. Mr. Stell did make some changes and those were incorporated into the copy handed out. According to Mr. Bryant the major change was the provision for temporary permits for special events (non profit). Attorney John Stell actually rewrote the section on that. The temporary special permit would allow events with sales and also without. The permit would be a fifteen-day permit. Instead of going to the mayor and council that permit would be issued through the City Clerk (if everything was in order) and the City Manager would approve the permit.

Councilman Bob Sosebee said he had one question and that pertained to the change regarding caterers in the Civic Center to either sell or serve with no more than six (6) events per year.

City Manager Clarence Bryant said that would allow a temporary one day permit. He said that Athens-Clarke County bid theirs out. They would have one (1) caterer that handled all the functions.

Mayor Charles Hardy talked about the parties that had already been booked for next year and questioned if they would be grandfathered in.

At that time Mayor Charles Hardy called for an Executive Session to discuss the Library Property Purchased.

Mayor Pro Tem Archie Chaney made a motion, seconded by Councilman Riley Harris to go into Executive Session.

The vote was unanimous.

Mayor Pro Tem Archie Chaney made a motion, seconded by Councilman Mark Fitzpatrick to come out of Executive Session

The vote was unanimous.

Charles L. Hardy, Jr., Mayor

Shirley Willis, City Clerk