

**CITY OF ST. MARYS, GEORGIA
SPECIAL CITY COUNCIL MEETING**

**December 17, 2008
6:00 p.m.**

**AMENDED
AGENDA**

I. CALL TO ORDER

II. INVOCATION: *City Manager Bill Shanahan*

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

QUORUM: YES___ NO___

V. GRANTING AUDIENCE TO THE PUBLIC (ADDED)

VI. BUSINESS:

A. DISCUSSION: *Airport Authority*

VII. ADJOURNMENT:

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MINUTES

The Mayor and City Council for the City of St. Marys, Georgia met for its regular City Council session on Wednesday, December 17, 2008 in the Council Chamber at City Hall.

PRESENT WERE:

Mayor Rowland Eskridge
Councilmember Greg Bird
Councilmember William DeLoughy
Councilmember Deborah Hase
Councilmember Larry Johnson
Councilmember Chuck Trader
Councilmember Gull Weaver

CITY OFFICIALS PRESENT:

William Shanahan, City Manager
Amanda Blackledge, City Attorney
Roger Weaver, Planning Director
Wiley King, Building Director
Tim Hatch, Police Chief
Robby Horton, Fire Chief
Rindy Howell, Sr. Center Coordinator
Bilal Muhammad, City Marshal
Nicole Goebel, IT Assistant
Richard Riggle, Sergeant-At-Arms

CALL TO ORDER

Mayor Eskridge called the City Council Meeting to order at 6:00 p.m. City Manager Bill Shanahan gave the invocation. Mayor Eskridge led the audience in the pledge of allegiance. Council roll call indicated a quorum of council members present for the meeting.

Mayor Eskridge recommended moving Item "C" to the beginning of the agenda. Councilmember Johnson made a motion to move Item "C" as recommended. Councilmember DeLoughy seconded the motion. Voting was unanimous in favor of the motion.

GRANTING AUDIENCE TO THE PUBLIC (ADDED)

Mayor Eskridge requested that the public limit their time, stay calm and not verbally attack council members or you will be escorted out of the council chamber by a police officer.

Tom Cyphers, resident spoke about the meaning of the words "necessary versus convenience" associated with open government, amended agendas and information provided to the public. Mr. Cyphers expressed his outrage that Council elected not to discuss the alleged infractions of the Airport Authority in the Georgia sunshine. Council classified members of the authority as

personnel for discussion in executive counsel and not following policy for firings. He stated that the authority members are due an apology for going into the darkness of a closed counsel.

Charles Langshaw, resident thanked the Mayor for his vote on the airport. Mr. Langshaw also criticized many council members for coming from other places, and trying to change St. Marys. Getting rid of the airport would be a big mistake but a good thing has happened to the mill site.

Roger Rillo, expressed concerns about economic prosperity, providing reasons for hotels or convention centers to come to St. Marys, accusations against authority members, Mr. Bird's ethics violation with no substantial evidence and the use of airport money for appraisals instead of airport safety. Mr. Rillo recommended that Council focus on the present and to stop all negotiations between Camden Partnership and Sea Island.

Jeff Stanford, Fix Based Operator St. Marys Airport refutes accusations printed in the editorial of the Tribune & Georgian.

Doug Vaught, requested hearing from the authority members on these matters, not someone who will put a positive spin in their favor.

BUSINESS:

C. AIRPORT CIP PLAN: *City Manager* (ADDED/MOVED)

Mayor Eskridge stated that the Capital Improvement Plan (CIP) is filed annually, which is signed by the City Manager and due at the end of each year for airport maintenance.

Councilmember Bird made a motion to authorize the City Manager to sign the Airport CIP Plan as presented. Councilmember Johnson seconded the motion. Councilmember Trader and the City Manager discussed reasons the final plan was not ready before time and that a special meeting would have been requested if Council did not meet today.

Councilmember Hase questioned for the record whether the plan was reviewed by the City Manager and if it was satisfactory because of the significant changes from last year. The City Manager responded that he has reviewed the plan and it was a wise decision to put safety and security as a priority for the up-coming year. The final figures will be reviewed before the City Attorney and City Manager approve the document and verify that there is no cost to the City on any of the items. Councilmember Hase compared the CIP to a wish list and noted there were things on the list that might change depending on whether the relocation happens. The City Manager understood the list to be a wish list and commented that things might change, depending on the airport's outcome. Councilmember Hase requested that the authority actually move forward by doing some things on the list and for Council to receive the information well in advance instead of hasty compilations at the very end of the year, thus possibly needing an extension as last year. Councilmember DeLoughy questioned whether the extension of the runway on the prior CIP Plan would remain on the list.

Dick Russell, Chairman Airport Authority responded that it was not on the plan. Mr. Russell had spoken with Carol Comer, GDOT who assured the authority that they will do the best they can to support programs for safety, security and maintenance of the airport. Lengthening runway 1331 was Ms. Comer's idea a year ago. Since the City has voted to move the airport, the GDOT will not support any Capitol Improvement Plans. Following much discussion about maintenance items, voting was unanimous in favor of the motion.

A. DISCUSSION: *Airport Authority*

Councilmember DeLoughy stated that there were many good pointed arguments and things brought forth for Council to think about. Many things were going on for a long period of time that manifested and this is why we are here.

Councilmember Trader made the following statement:

“First, I have strongly believed the expenditure of advertising funds was against the intent and purpose of “The Ethics in Government Act” O.C.G.A. 21-5-30.2 (a) (1) (c) and (b) which states that ...“No agency and no person acting on behalf of an agency shall make, directly or indirectly, any contribution to any campaign committee, political action committee, or political organization or to any candidate...”. An authority established by municipality is forbidden from accepting contributions or making expenditures supporting or opposing a ballot question. Fines for these actions are significant and these actions represent poor judgment on the part of the members who supported the advertisements.

Additionally, use of public funds have been wasted on a spurious lawsuit, as well as threats to bring another one against the state to deny the city funding which will waste more public funds. The action of this authority has thwarted the will of the elected officials. It has crushed the will of the general public as expressed in a public referendum on a question that was designed to elicit a “no” answer. By inference it has attacked the military and the largest employer in the history of Camden County, potentially placing at risk a \$500 million payroll at a time when job expansion in the county is a vital importance.

The lease with the city requires the Authority to promptly observe, comply with, and execute, at its cost and expense, all present and future laws, rules, requirements, orders, directions, ordinances, and regulations of the State of Georgia and the City of St. Marys and of the United States, and of any and all governmental authorities or agencies, including the Federal Aviation Administration, and of all municipal departments, bureaus, boards, or officials of the City of St. Marys.

It is time that we all move forward. These issues are not new issues to either party. It is our role as member of the Council to ensure all members of authorities and organizations

that are sponsored by the city live up to their responsibilities and obligations. As such, I support the removal of the members for cause and support overriding the veto of the

Mayor. I appreciate and thank the Authority members for their service to the community prior to their recent actions.”

Mayor Eskridge then asked for a response from the authority.

James Stein, Attorney representing the Airport Authority responded that Council has been charged with upholding the laws of the State of Georgia, as is everyone else. He had contacted the City Attorney in July on whether the Authority had violated an Ethics Commission law pertaining to election code. He stated that the authority did not violate the law and if they had it is the business of the Election Commission in the City of Atlanta. If there was a complaint, it should be made with the Election Commission but that did not happen. Mr. Stein spoke about safety issues and the authority’s position if information was available indicating that the airport was jeopardizing the safety or national security of this country which have not been addressed by the base commander. None of the other issues or complaints was communicated to the authority, which was denied their right to due process for cause as stated by Judge Williams.

Councilmember Hase made a motion that Council be able to have exchange with the actual members themselves. Mayor Eskridge stated that other people were given a chance to address Council and when Mr. Stein is finished, the individual members could come up and answer questions. Motion failed for lack of second.

Mr. Stein stated that the members probably would not answer questions because they are in the middle of litigation. If Council wants to charge them in the right way, under the law, following the proper procedures, then they will answer those charges. According to the judge, it has to be shown for cause and formally given to have notice and hearing, which could be discussed and handled out of the courtroom.

Councilmember Trader questioned why Mr. Stein did not believe it was a breach in the Ethics in Government Act. Mr. Stein responded that it does not apply to anything but elected official’s campaigns and does not apply to issues. The ethics violation lies with Atlanta, not Council. Councilmember Trader further questioned if Mr. Stein believed it was the authority’s responsibility under the lease to follow the directive of the City and quoted a section from the lease that was made in his statement. Mr. Stein responded that the authority has the duty and responsibility of maintaining the airport, reporting to Council and quoted another portion of the lease, drawn up by Terry Floyd, stating that council was giving the airport back to the authority, as if they owned it. The airport is making money, it is in operation and everything the DOT requires is completed. The real issue is that Council does not want the authority to have a voice on whether the airport is moved or not moved. Councilmember Trader and Mr. Stein agreed to move forward with the approved resolution to move the airport. Mr. Stein questioned where Council would find five people with the expertise and knowledge they gained from the time they

have been on the job, when the members were removed and stated that it was a disservice to the City of St. Marys.

Councilmember DeLoughy expressed concerns with the ethics portion and a statement was made at a meeting that the advertisement was donated, not paid by the airport authority. Mayor Eskridge responded that he did say it was donated. At the time the authority did not have the approval from Mr. Stein to go forward. It was his understanding that it was donated but later found out from Mr. Russell that the authority was paying for it.

Councilmember Hase addressed the following violations:

“ 1. Section five states that the lessee assumes all duties and obligations with relation to premises and buildings and the maintenance and operations thereof. As previously noted, it is the opinion of this council that they have failed to do so by failing to aggressively seek funding for maintenance. Hurriedly compiling a CIP plan at the end of each year is not sufficient in satisfying this lease requirement.

2. Section six states that the lessee agrees to promptly observe and comply with, at its own expense, all present and future laws, rules, requirements, orders, directions, etc. of the State of Georgia, the City of St. Marys and the United States, including the officials of the City of St. Marys. They have failed to do this by refusing to acknowledge the decisions of the Council and the citizens of St. Marys to move forward with the relocation effort, and to keep the airport secure and safe with appropriate fencing, lighting and tree clearance, per FAA regulation. Also, the violations of Georgia Election Laws by running advertisements.

3. Section nine states that the lessee agrees to indemnify lessor and save it harmless from any and all claims and costs that may arise for injury, death, loss or damage. The city has discussed this matter with the chairman of the authority on several occasions, to no avail. I was personally involved in one of those discussions on June 27th of this year. The authority has failed to indemnify the city, and the city has had to use property tax funds to indemnify itself, when funds should have been expensed from the Airport Authority. Yet, their members state in court and elsewhere that they are unaware of any concerns by the city regarding these matters, which is a false statement.

The City of St. Marys officials need to have appointees we can count on to be truthful in leadership positions. Unfortunately, Chairman Russell has attempted to mislead officials and the public on several occasions. Some have already been mentioned, and two more examples:

1. According to the Mayor, Mr. Russell told him that the advertising for the referendum regarding the relocation of the airport was donated to the authority. The city has obtained a copy of the invoice in the amount of \$495 payable to K-Bay Radio for those ads, and billed to the Airport Authority.

2. Mr. Russell, under oath, when asked by the judge in Superior Court if the authority had a position on the airport relocation, responded with “no”. Yet, the authority obviously does have a position because they ran ads urging the public to vote “no” on the referendum; and they continue to take action to obstruct the City’s progress on this relocation project.

Finally, the members of the board are in position of trust, and they have failed this community. Also, by continuing to take these actions, and not fulfilling their lease obligations, they have threatened the relations that the city has with the GA DOT and the Federal Aviation Administration, and thus endangered future funding to this city, and the safety and security of our airport.”

Councilmember Hase stated that the authority has now heard Council’s claims of violations and questioned Mr. Stein that they are not ready to respond. Mr. Stein responded that is exactly right because they are entitled to be given notice and opportunity to do it. There are five members who have just received this information today when they could have had a meeting to address the issues.

Councilmember Weaver commented that there has been a lot of miscommunication and the intent of the order is to have both sides get together, discuss and resolve the problems. This is not getting us anywhere because both sides are passionate and believe in what they are doing. According to the City Attorney, the pending lawsuit prevents us from talking.

Mr. Stein responded that the appeal is on whether or not the authority has any voice in what may or may not be done with the airport, not the current issues. The judge suggested off the record, the right thing to do was to withdraw what was done and get with them to work it out.

Mayor Eskridge agreed with what the judge said that it should be worked out on a local basis but she would rule on it if necessary.

Councilmember Weaver requested clearing up the miscommunication regarding not talking about the issues because of the lawsuits. Mr. Stein stated that there is a provision in the law that says if you have settlement negotiations, where you discuss things, it is not admissible in court. Councilmember Bird discussed holding a work session and to set an example to do the right thing, as a courtesy to the community.

Mr. Stein stated unless the action to remove the board is withdrawn, it cannot be discussed because they are in the middle of litigation. The authority has a right to protect future authorities, a right to know what is going on, a right to decide whether or not you can arbitrarily and capriciously avoid the law and they did not ask for that litigation or restraining order.

Councilmember Trader questioned what Council needed to do to sit down and talk with the authority. Mr. Stein responded that a work session would be great. The City Attorney explained that council would need to go back to status quo before the motion was made or rescind the original motion that was made. In hopes the Authority would be amiable to dismiss the case without prejudice, to get it out of the courtroom.

Councilmember Johnson stated that the primary reason some of us were here was to override the Mayor's Veto, which is in conformance to the decision of the court. He requested that Council allow the veto to stand so we are at square one.

Councilmember Hase commented that she did not disagree with what the judge said because Council had not been advised that "for cause" needed to be met, the need to sit down with the authority and give them a hearing, she would not have a problem doing it. It was her understanding that we were not to discuss this because of the lawsuit and these things have been going on for some time.

Mr. Stein requested a copy of the accusations and violations against the authority to address during the work session. Mayor Eskridge stated that the City Attorney would provide the information tomorrow by 9:00 a.m.

Councilmember Hase commented that this issue was discussed during executive session as legal, not personnel. She further added that some accusations against the members were discussed publicly after the executive session.

Councilmember Bird made a motion to schedule a Work Session on January 13, 2009 at 5:00 p.m. in the Council Chamber at City Hall. Councilmember Weaver seconded the motion. Voting was unanimous in favor of the motion.

Councilmember Hase stated that it should be understood that the relocation of the airport would not be a part of the discussion at that meeting, because that issue has been resolved. Attorney Stein agreed.

B. MAYOR'S VETO: Councilmember DeLoughy (ADDED)

Councilmember DeLoughy stated that Council has 30 days to override the Mayor's Veto. No action was taken at this time.

ADJOURNMENT:

Councilmember Bird made a motion for adjournment. Councilmember Johnson seconded the motion. Mayor Eskridge declared the meeting adjourned at 7:12 p.m.

Respectfully submitted,

Darlene M. Roellig, City Clerk