

Unified Government of Athens-Clarke County, Georgia
Mayor and Commission
Tuesday, May 19, 2020
Special Called Session
6:00 p.m.
City Hall/WebEx

The Unified Government of Athens-Clarke County, Georgia met this date in a special called session. Present: Mayor Girtz; Commissioners Davenport, Parker, Link, Wright, Denson, NeSmith, Edwards, Herod, Thornton, and Hamby. No one was absent.

Due to the COVID-19 pandemic, the May 19 Mayor and Commission session was remote except for the zoning public hearing. The meeting could be viewed live at www.accgov.com/videos, on YouTube at www.youtube.com/accgov, on Facebook at www.facebook.com/accgov, and on ACTV Cable Channel 180 or the live ACTV stream at www.accgov.com/actvlive

The purpose of the meeting was to consider a zoning item; appointments; case settlement; and enter into executive session for discussion of real estate acquisition and/or disposal.

A motion was made by Commissioner Edwards, seconded by Commissioner Parker, to amend the agenda to add to the executive session an attorney/client conference to discuss threatened or pending litigation. The motion passed by unanimous vote.

A motion was made by Commissioner Edwards, seconded by Commissioner Thornton, to enter into executive session for an attorney/client conference to discuss threatened or pending litigation, and upon adjournment of today's agenda setting session to enter into executive session for discussion of real estate acquisition and/or disposal.

The Mayor and Commission entered into executive session at 6:04 p.m. and reconvened in open session at 6:28 p.m.

New business – Consider under suspension of Rules

A public hearing was held on request of Kiersten Lurer, PM&A for Freddie Massey for special use in AR (Agricultural Residential) District on 0.557 acre of a 34-acre tract known as 855 Nowhere Road. Proposed use is a telecommunications facility.

Citizen input

The following citizen input was received.

1. Chuck Palmer, representing Verizon – supported.
2. Robert Walley, representing Verizon – supported.

A motion was made by Commissioner Denson, seconded by Commissioner Thornton, to direct staff to work with Verizon to consider an Athens-Clarke County owned site that might be viable for the location of the subject tower.

Commissioner Denson amended his motion to hold consideration of this item until Tuesday, July 7, 2020.

Commissioner Thornton agreed to the amendment.

The motion as amended passed by unanimous vote.

A motion was made by Commissioner NeSmith, seconded by Commissioner Link, to approve the following appointments to the Joint Development Authority of Athens-Clarke County Georgia and the City of Winterville for terms ending April 30, 2024. The motion passed by unanimous vote.

Mayor Kelly Girtz
Erica Cascio
Simone Cifuentes
Stephanie Lynn

A motion was made by Commissioner Link, seconded by Commissioner Edwards, to adopt the following resolution. The motion passed by unanimous vote.

RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION

WHEREAS, on or about November 22, 2019, Plaintiff Adam Bishop ("Plaintiff") initiated a lawsuit in the United States District Court for the Middle District of Georgia, Athens Division, styled *Adam Bishop v. Athens-Clarke County Unified Government; Does 1-2*, and assigned Civil Action File No. 3:19-CV-102-CDL (hereinafter, the "Litigation") by filing a complaint in said court; and

WHEREAS, Plaintiff alleges that the Unified Government of Athens-Clarke County, Georgia ("Unified Government"), and two police officers labeled Does 1 and 2 violated his constitutional rights of free speech and freedom of religion at the Athens Pride Festival on or about September 29, 2019; and

WHEREAS, Does 1 and 2 have subsequently been identified as Athens-Clarke County Police Officer C.J. Bidinger ("Bidinger") and former Athens-Clarke County Police Senior Police Officer Jamie Cummings ("Cummings"); and

WHEREAS, on or about January 3, 2020, Greg Sowell, Esq., and Aidan Moss, Esq., of the law firm Cook & Tolley, LLP, and Chief Assistant Attorney John Hawkins, acting on behalf of the Unified Government, Bidinger, and Cummings, filed an answer to Plaintiff's complaint; and

WHEREAS, in accordance with Section 1-20-1 of the Code of Athens-Clarke County, Georgia, the Unified Government has an obligation to indemnify Bidinger and Cummings, and has done so by providing defense counsel and resolving said Litigation as set forth below; and

WHEREAS, the attorneys for Plaintiff and the attorneys for the Unified Government have negotiated a resolution of the Litigation, the terms of which are described in further detail below; and

WHEREAS, without admitting liability or fault, the Commission finds it to be in the best interests of the Unified Government to resolve the Litigation as set forth below; and

WHEREAS, it is the intention and understanding of the Commission that adoption and approval of the settlement terms below shall fully and completely resolve any claims or causes of action, whether asserted or not, arising from or out of the events described in the complaint filed by Plaintiff in the Lawsuit on or about November 22, 2019, and the subsequent Answer filed by the attorneys for the Unified Government in the Lawsuit on or about January 3, 2020;

NOW, THEREFORE, the Commission hereby resolves as follows:

SECTION 1.

The attorneys for the Unified Government shall be authorized to offer up to \$25,000 (Twenty-Five Thousand Dollars) to Plaintiff, the two (2) individuals accompanying Plaintiff during the incident at issue in the Litigation, and their attorneys, said amount to encompass any damages that Plaintiff and the other two (2) individuals suffered and attorney's fees.

SECTION 2.

As part of the resolution of the Litigation, the Unified Government shall agree to the following non-monetary relief, to be incorporated into a final consent order or other settlement document:

1. The Unified Government will agree to train its police officers and police officer recruits regarding expressive activity, with emphasis upon expressive activity in traditional public forums (e.g., public streets and public sidewalks). The Unified Government will provide this training as described below.
 - a. All police officers will receive a training bulletin on basic First Amendment issues, with emphasis on expressive activity in traditional public forums. This training bulletin will briefly describe legal authorities as it relates to permitted public festivals and similar events, and will provide police officers guidance regarding expressive activity at such events. As with all training bulletins, the Athens-Clarke County Police Department will require all officers to sign that they have received and read this training bulletin.

- b. All police officers will receive training regarding First Amendment issues during their required annual training. This training will emphasize expressive activity in traditional public forums, and will further offer guidance to officers regarding expressive activity at permitted public festivals and similar events.
 - c. As part of their initial training with the Athens-Clarke County Police Department, newly-certified police officers will receive training during their New Officer Basic Course ("NOBC") regarding basic First Amendment issues, with an emphasis on expressive activity in traditional public forums.
2. The Unified Government, as a condition of this settlement, will agree that it will not threaten to arrest any person, or actually arrest any person, for criminal trespass during any publicly-accessible, permitted festival or similar event on the public streets and sidewalks within Athens-Clarke County, Georgia, for the sole reason that such person is conducting expressive activity on such public streets or sidewalks that is protected under the First Amendment to the United States Constitution. This agreement does not, however, limit the Unified Government's ability to arrest any person or cause any person to terminate their expressive activity when such person is using fighting words, inciting a riot, or otherwise expressing themselves in a manner not protected under the First Amendment to the United States Constitution. The Unified Government shall at all times have the general police authority and power to protect the public and maintain safety.

SECTION 3.

As part of this resolution to the Litigation, Plaintiff must agree that the monetary and non-monetary relief described above affords him complete and total relief for the claims asserted in his Complaint filed with the United States District Court for the Middle District of Georgia, Athens Division, on or about November 22, 2019, and any other claims, whether asserted or not, arising from or out of the events that occurred during the Athens Pride Festival on or about September 29, 2019, and on behalf of himself, his heirs, and his assigns, forever releases and discharges the Unified Government and Defendants C.J. Bidinger and Jamie Cummings from any further claims, causes of action, judgments, damages, or costs of litigation (including attorney's fees) arising from or out of the events that occurred during the Athens Pride Festival on or about September 29, 2019, and must agree to dismiss his claims with prejudice at an appropriate time as set forth in a written settlement agreement or consent order.

SECTION 4.

Greg Sowell and Aidan Moss, of the firm Cook & Tolley, LLP, and Chief Assistant Attorney John Hawkins shall have authority to prepare, or to cause to be prepared, any and all documents and court filings necessary to effectuate the resolution of the Litigation as described herein, and to make such filings in the United States District Court for the Middle District of Georgia as may be necessary or appropriate. The Mayor of Athens-Clarke County, Georgia, shall have authority to sign any documents as may be necessary or appropriate to effectuate the resolution of the Litigation as described herein.

The meeting adjourned at 6:56 p.m.

Clerk of Commission

