

City of Thomasville Council Called Meeting, October 18, 2021

The Council of the City of Thomasville met in a called session with Mayor Greg Hobbs presiding and the following Councilmembers present: Mayor Pro Tem David Hufstetler and Councilmembers Jay Flowers, Todd Mobley and Wanda Warren. Also present were the City Manager, J. Alan Carson; City Attorney, Tim Sanders; other city staff; citizens and members of the press. The meeting was held in Council Chambers at City Hall, located at 144 East, Jackson Street, Thomasville, Georgia.

This meeting was held in a manner that observed active Executive Orders and Health Advisories provided by Georgia Governor Kemp, Centers for Disease Control, Department of Health, and local health officials in response to the coronavirus pandemic. Seating was limited and additional safety measures were required such as, but not limited to, social distancing and the wearing of facial coverings, to ensure the health and safety of meeting participants and the citizens of Thomasville. Simultaneous access to the meeting was provided to those members of the press and citizens not present via the City of Thomasville's online live stream feed located at www.thomasville.org.

CALL TO ORDER

Mayor Hobbs called the Council Meeting to order at 5:45 PM.

Mayor Hobbs stated: "Because I was sued personally in the lawsuit that will be addressed to the Council, I believe I have a conflict of interest and ask that this disclosure be entered on the minutes; I will therefore not be participating in any decision or vote relating to this matter." Mayor Pro Tem Hufstetler reported the same conflict of interest stated by Mayor Hobbs was also applicable to him and requested the Clerk to record the same conflict of interest for Mayor Pro Tem Hufstetler in the minutes of this meeting. Mayor Hobbs and Mayor Pro Tem Hufstetler exited the meeting room.

City Attorney Sanders noted without Mayor and Mayor Pro Tem present to preside over the meeting, the remaining Councilmembers should appoint a Chairperson to preside over the meeting.

Councilmember Mobley motioned to appoint Councilmember Flowers as Chairperson to preside over this meeting. Councilmember Warren seconded. There was no further discussion. The motion passed 3-0, with the following votes recorded: AYES: Councilmembers Flowers, Mobley and Warren.

Councilmember Mobley motioned to close the public meeting for Council to enter into an Executive Session for the purpose of consulting and meeting with legal counsel regarding litigation (O.C.G.A. § 50-14-2(1)). Councilmember Warren seconded. There was no further discussion. The motion passed 3-0, with the following votes recorded: AYES: Councilmembers Flowers, Mobley and Warren.

Citizens, members of the press and others who were not required to remain in attendance for the Executive Session exited the meeting room.

Following the duly closed and opened Executive Session, the public meeting was resumed with Councilmember Flowers presiding and the following Councilmembers present: Mayor Pro Tem David Hufstetler and Councilmembers Jay Flowers, Todd Mobley and Wanda Warren. Also present were the City Manager, J. Alan Carson; City Attorney, Tim Sanders; other city staff; citizens and members of the press.

It shall be noted that Mayor Hobbs did not return to the public meeting and Mayor Pro Tem Hufstetler returned to the public meeting and resumed his seat on the dais.

Councilmember Flowers reconvened the public meeting at 6:48 PM.

Councilmember Mobley motioned for Council to consider the approval of a settlement agreement in connection with pending litigation brought by Young, Fuchs & Ferguson against the City of Thomasville and to authorize Councilmember Flowers to sign the agreement on behalf of the City of Thomasville. Councilmember Warren seconded. The following discussion and comments were recorded:

Councilmember Warren stated: "I would be doing a disservice to the citizens if I said nothing about this. As so many citizens know this has been going on for many years, I think since 2018. And to summarize this is a settlement for a lawsuit for violation for open records requests. The proposed settlement is \$110,000.00; this is public information now because we are voting on it. Also, there is an agreement for a request to implement an open records request policy. I absolutely agree that we need an open records request policy, we really should have already had one, but it is my understanding that the City has been for a while, since 2019, been abiding by a policy ensuring that any open records requests are taken through a very strenuous process to make sure that

we are timely responding to those requests. So, I agree that we need this policy and I actually would like to beef it up a little more later. But just to be clear, I really cannot agree to this settlement when there is absolutely no evidence of any damages to substantiate this claim. I don't know if there was some kind of delay or anything but of course fees were increased, attorney's fees have increased for many years now. The hope is that our city as a whole learned something from this but it would be absolutely irresponsible for me to agree to pay unsubstantiated legal fees in a situation which a remedy appears to have already been obtained. It is my understanding of the open records request act, Georgia Code 50-18-73, that if a superior court determines that a party has acted without substantial justification, the court shall assess in favor of the complainant party reasonable attorney fees. Reasonable is the magic word. So, I do not feel that we should settle this because the attorneys' fees appear to be unreasonable. Some would try and make me believe that to settle would save the city money, I tell you now, I don't believe that. It's a shame and I have realized that this case is being used as a pawn on some warped game board to seek some perverted political payback. Shame on those who are using this city, which belongs to the people just in case anyone has forgotten, playing personal games to either enrich themselves or to gain unsubstantiated power and control over the administration of this city. We've made many improvements in this city over the last couple of years, we are doing a good job. It's a shame we are here on this lawsuit. So I say to the citizens of this city I will always do right by you and will always be a good servant and a good steward for the public. I absolutely disagree with some of the behaviors I have seen with this case, but more concerning is the seemingly normalcy of a misuse of power and lack of concern to do right by the people. We always forget about the people. Let's start remembering about the people we are supposed to be serving, it is time for this self-serving and entitled behavior to find another place and let's just start running this city like it should be run. And, make no mistake, I am not upset. I am absolutely angry that the people of this city has had to put up with this for way too long. It is past time for the needs of the citizens to be put at the forefront of the decisions that we are having to make every day. Do better. To be clear, I fully understand this game that's being played and we need to start playing a game that entails working for the people of this city. I yield the floor Mr. Flowers."

Councilmember Mobley stated: "I believe that there are games being played and that a lot of money has been spent so far. After listening to Mrs. Warren's comments, it's hard to vote either way. In the end, it's probably going to, either way it's settled, it's still going to cost our citizens a big deal of money and I am sorry for that. Open records requests, turn them in; bottom line. It makes me want to vote yes and want to vote no. I have to weigh those options and what's it going to cost us in the end?"

Councilmember Flowers stated: "Council does need to vote, there is a settlement on the table. This is a lawsuit that has been dragging on for two-and-a-half years and there's no winners. Unfortunately, there's been a lot of expenditures and there will be a lot more going forward if we do not accept the settlement and that is one of the difficult things. We, as Council, do care for the citizens and we do take care of the citizens in so many ways. This is not one of those ways, but it is. There is much more to be spent pursuing this particular lawsuit if we don't settle today. It is a difficult decision. It is a fiduciary responsibility that we, as Councilmembers, must accept when we take the job and it is one that is the most important part of what we do, is to be here and be conscious and conscientious with the funds of the city. So, it's tough, and I understand both of my colleagues here and their comments; but it's also the right thing to do to stop this, settle, and move on."

Councilmember Flowers called the question for the motion on the table and the motion remained unchanged. There was no further discussion. The motion failed 2-1; with the following votes recorded:

AYES: Councilmember Flowers, Councilmember Mobley.

NAY: Councilmember Warren.

ABSTAINED: Mayor Pro Tem Hufstetler due to conflict of interest.

ABSENT: Mayor Hobbs.

ADJOURNMENT

Having no further business to discuss, the Thomasville City Council Called Meeting was adjourned at 6:56 PM.

Felicia Branen
ATTEST: City Clerk

