

MINUTES
WAYCROSS CITY COMMISSION MEETING
TUESDAY, MARCH 5, 2013
7:00 P.M.

The regular meeting of the Commission of the City of Waycross was held in the Commission Chambers of City Hall on Tuesday, March 5, 2013. The meeting was called to order by Mayor Clarence E. Billups at 7:00 p.m. with Mayor Pro Tem William Simmons, Commissioners Norman Davis, Marian Solomon-Gaines, and Diane Hopkins. Commissioner Alvin Nelson was not present.

The invocation was given by Markevis Davenport, Regional Treasurer, Phi Delta Kappa, Judos, followed by the Pledge of Allegiance.

Avis Staten, Human Resources, introduced John B Bratcher, Cemetery Department who is Employee of the Month for March, 2013.

Deron W. King, City Manager, presented the City Manager's Report. Mr. King congratulated J B Bratcher, City of Waycross Employee of the Month for March, 2013. He offered the City's condolences to the family of Preston Settle, Ware County Human Resources Director.

Mayor Clarence Billups thanked J B Bratcher, March 2013 Employee of the Month for a job well done. Mayor Billups reminded citizens of the annual Jim Blackburn Senior Safety Day to be held March 15, 2013 from 10 a.m. to 2 p.m. at Waycross Middle School Auditorium. His prayers also go out to the family of Preston Settle.

There were no public remarks on official action.

Mayor Clarence Billups presented the Consent Calendar as read by City Clerk, Julie Dinkins, for consideration of official action as follows:

Approval of Minutes: Waycross City Commission Planning & Information Session Monday, February 18, 2013, Executive Session, Monday, February 18, 2013; and Waycross City Commission Meeting, Tuesday, February 19, 2013.

There were no consent resolutions, ordinance second readings or privilege license renewals.

Commissioner Norman Davis made the motion to approve the Consent Calendar as presented. Commissioner William Simmons seconded the motion; all Commissioners voted favorably and the motion carried with a 4-0 vote.

Ms. Linda Jones, Purchasing Director, presented Surplus Property WAYX 13-06 to declare certain items confiscated by the Waycross Police Department or no longer needed by any City Department surplus. Ms. Linda Jones requested that the property be declared surplus and sold on GovDeals.com. Ms. Jones confirmed that she had clarified how the new tax laws would affect the City. Commissioner Marian Solomon-Gaines made the motion to approve the motion to declare the listed property surplus. The motion was seconded by Diane Hopkins. All Commissioners voted yes and the motion carried with a 4-0 vote.

A Resolution of the City of Waycross, Georgia to Approve a Borrow Pit Agreement between the City of Waycross, Georgia and Ken and Patricia Sylvester was presented for approval:

RESOLUTION NO. 13-11

**A RESOLUTION OF THE CITY OF WAYCROSS, GEORGIA
TO APPROVE BORROW PIT AGREEMENT BETWEEN THE CITY OF WAYCROSS,
GEORGIA AND KEN AND PATRICIA SYLVESTER TO PROVIDE THE CITY OF
WAYCROSS WITH USEABLE MATERIALS FOR PUBLIC WORKS PROJECTS;
AND FOR OTHER PURPOSES.**

WHEREAS, the City is in need of soil, sand, dirt, chert, stone, gravel, aggregate, etc., (hereinafter materials) customarily used for City public works projects; and

WHEREAS, it is beneficial to both the City and **KEN & PATRICIA SYLVESTER** to partner in this project of excavating materials from the **SYLVESTER'S** property to provide the City with useable materials for public works projects and to provide the owner with a pond site; and

WHEREAS, said matter being considered and determined to be just and adequate compensation for the premises and for the use of said materials.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Waycross that the City of Waycross enter into a Borrow Pit Agreement for the City to excavate needed materials from the owner's property, and to provide the owner with a pond site, and for the owner to grant to the City of Waycross a temporary access easement as may be required for the City to enter the owner's property for the period of time necessary to complete the terms of the Agreement.

BE IT FURTHER RESOLVED that the Mayor and City Clerk be and are hereby authorized, directed and empowered to execute the Barrow Pit Agreement.

SO RESOLVED, this 5th day of March, 2012.

**CITY OF WAYCROSS, GEORGIA
CLARENCE E BILLUPS, Mayor**

**ATTEST:
JULIE C. DINKINS, City Clerk**

Commissioner Diane Hopkins made the motion to approve the Resolution to Approve a Borrow Pit Agreement Between the City of Waycross, Georgia and Ken and Patricia Sylvester as presented. The motion was seconded by Commissioner William Simmons. All Commissioners voted positively and the motion carried with a 4-0 vote.

A Resolution of the City of Waycross, Georgia to Authorize the Approval of an Amendment to the City's Charter Regarding Mayoral Powers was presented:

RESOLUTION NO. 13-12

**A RESOLUTION OF THE CITY OF WAYCROSS, GEORGIA TO AUTHORIZE
APPROVAL OF AMENDMENT TO THE CITY'S CHARTER REGARDING
MAYORAL POWERS OF THE CITY OF WAYCROSS;
AND FOR OTHER PURPOSES.**

WHEREAS, Section 15 of the Charter for the City of Waycross, Georgia provides for Election of Mayor, Powers and Duties; and

WHEREAS, Section 15 (d) provides that the Mayor shall be the official head of the City government and chief representative of the City, and it shall be the Mayor's duty:

- (1) To preside at meetings of the commission, and he shall have all the rights, powers, and duties and responsibilities as a commission member except that the Mayor shall be entitled to vote on matters before the mayor and commission only where there is an equal division on the question, and then the mayor shall determine the matter by his vote. The mayor shall also be entitled to vote on the election of the following officers and employees of the commission: mayor pro tempore, city manager, city attorney, and recorder;

and

WHEREAS, the commission of the City of Waycross desire that the City Charter be amended to provide the mayor with the power to vote on the termination of the city manager as a member of the commission; and

WHEREAS, when amended Section 15 (d) (1) of the City Charter would read as follows:

(d) The Mayor shall be the official head of the City government and chief representative of the City, and it shall be the Mayor's duty:

- (1) To preside at meetings of the commission, and he shall have all the rights, powers, and duties and responsibilities as a commission member except that the Mayor shall be entitled to vote on matters before the mayor and commission only where there is an equal division on the question, and then the mayor shall determine the matter by his vote. The mayor shall also be entitled to vote on the election of the following

officers and employees of the commission: mayor pro tempore, city manager, city attorney, and recorder. Further, the mayor shall also be entitled to vote on the termination of the city manager.

WHEREAS, said matter having been considered.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Waycross that the City of Waycross, hereby calls on the Georgia State Legislative Delegation representing the City of Waycross, including Representative Jason Shaw, Representative Jason Spencer, Representative Ellis Black and Senator Tyler Harper, to forthwith introduce and pass legislation to amend Section 15 (d) (1) of the Charter of the City of Waycross, Georgia relating to Mayoral Powers and Duties as set forth hereinabove.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to said Georgia State Legislative Delegation representing the City of Waycross, media outlets, and other appropriate persons or entities; and

BE IT FURTHER RESOLVED that the City Manager and Mayor are hereby authorized, directed and empowered to execute any additional documents needed or appropriate, and to take any action necessary to implement this Resolution in the most effective manner possible.

SO RESOLVED, this 5th day of March, 2013.

CITY OF WAYCROSS, GEORGIA
CLARENCE E BILLUPS, Mayor

ATTEST:

JULIE C. DINKINS, City Clerk

A Resolution of the City of Waycross, Georgia to Authorize the Approval of an Amendment to the City's Charter Regarding Mayoral Powers was adopted by Motion from Commissioner Norman Davis; seconded by Commissioner Diane Hopkins; the vote was 4-0 for approval.

A Resolution of the City of Waycross, Georgia to Authorize the Approval of an Amendment to the City's Charter Regarding Police Court was presented:

RESOLUTION NO. 13-13

A RESOLUTION OF THE CITY OF WAYCROSS, GEORGIA TO AUTHORIZE APPROVAL OF AMENDMENT TO THE CITY'S CHARTER REGARDING POLICE COURT; AND FOR OTHER PURPOSES.

WHEREAS, Section 59 of the Charter for the City of Waycross, Georgia provides for the creation of a Police Court; and

WHEREAS, said Police Court is vested with jurisdiction to try and determine all offenses against the laws and ordinances of the City committed within the jurisdictional limits of the City, and upon conviction to punish the offenders for the violations of such laws and ordinances by imposing such fines and sentences, and inflicting such punishment as shall be prescribed by the provisions of this Act and the ordinances and resolutions adopted in pursuance thereof; and

WHEREAS, the Commission of the City of Waycross desires to change the name of the court from “Police Court” to “Municipal Court”; and

WHEREAS, the Commission of the City of Waycross desire to vest the Police Court, to be renamed Municipal Court, with all the jurisdiction and judicial powers throughout the entire area of the City of Waycross granted by State laws generally to municipal courts, including the power to impose sentences for those offenses that carry a maximum penalty under State law of up to twelve (12) months imprisonment, and particularly by such laws as authorize the abatement of nuisances; and

WHEREAS, the Commission of the City of Waycross desire to vest the Police Court, to be renamed Municipal Court, with all the judicial powers necessary and proper to function as a Municipal Court consistent with the mandates of applicable State laws; and

WHEREAS, the current Section 59 of the Charter of the City of Waycross should be repealed in its entirety and replaced with a new Section 59 to be entitled Municipal Court, as set forth in the attached **Exhibit “A”**.

WHEREAS, said matter having been considered.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Waycross that the City of Waycross, hereby calls on the Georgia State Legislative Delegation representing the City of Waycross, including Representative Jason Shaw, Representative Jason Spencer, Representative Ellis Black and Senator Tyler Harper, to forthwith repeal Section 59 of the Charter of the City of Waycross in its entirety, and replace it with a new Section 59 to be entitled Municipal Court, as set forth in the attached **Exhibit “A”**, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to said Georgia State Legislative Delegation representing the City of Waycross, media outlets, and other appropriate persons or entities; and

BE IT FURTHER RESOLVED that the City Manager and Mayor are hereby authorized, directed and empowered to execute any additional documents needed or appropriate, and to take any action necessary to implement this Resolution in the most effective manner possible.

SO RESOLVED, this 5th day of March, 2013.

CITY OF WAYCROSS, GEORGIA
CLARENCE E BILLUPS, Mayor

ATTEST:
JULIE C. DINKINS, City Clerk

“EXHIBIT A”
Charter Amendments

Section 59: Municipal Court

(1) Creation

(A) There shall be a court to be known as the Municipal Court of the City of Waycross (“municipal court”); the same is hereby granted all such powers as are inherent in courts generally and as usually belong to municipal courts under the laws of this State, as well as those hereinafter more particularly set forth.

(B) The municipal court shall be held and conducted in such manner and at such place and times as the city commission shall prescribe by ordinance, or as may be necessitated by the emergencies of the case.

(2) Judge

(A) No person shall be eligible to serve as judge of municipal court unless such person shall be, at the time of qualification, at least 21 years of age, shall be a resident of the Waycross Judicial Circuit, and shall be a licensed, practicing attorney at law in good standing.

(B) Any person selected to be judge of said court shall preside over said court and shall try and determine all cases therein, without a jury. Said person shall be clothed with all the powers as judge of said court as set forth in this Charter, the ordinances of the City of Waycross, Georgia, and as provided by law.

(C) Before entering upon his duties of office said person shall take and subscribe the following oath, which shall be entered upon the minutes of the commission:
"I solemnly swear that I will uprightly demean myself as Judge of the Municipal Court of the City of Waycross and that I will faithfully and impartially discharge all the duties incumbent on me as presiding Judge of said Municipal Court of said City, according to my best ability and understanding, and agreeably to the laws and Constitution of the United States and the Charter and ordinances of the City of Waycross, and the laws and Constitution of the State of Georgia, so help me God."

(D) The judge shall hold court at stated hours daily, Sundays excepted, or as often as the exigencies of business may demand. In case the judge is absent from the city, sick, disqualified, or for other cause is unable to hold court, the judge pro tempore may preside and act as judge of said court in the place of said judge and while so doing shall be clothed with all the rights and powers of the judge of said court.

(E) The judge of said court and the judge pro tempore of said court shall serve at the pleasure of the commission of the City of Waycross.

(F) The judge of said court shall be selected by the commission of the City of Waycross in the same manner and at the same time as the city manager and other officers are now elected, for a term of one year.

(G) In case a vacancy shall occur in the office of the judge of said court such vacancy shall be filled by the commission of the City of Waycross.

(3) Jurisdiction, Powers

(A) The municipal court shall have jurisdiction to try and determine all offenses against the laws and ordinances of the city committed within the jurisdictional limits of the city, and upon conviction to punish the offenders for the violation of such laws and ordinances by imposing such fines and sentences, and inflicting such punishment as shall be prescribed by the provisions of this Act and the ordinances and resolutions adopted in pursuance thereof. The judge or judge pro tempore of the municipal court shall have the power to impose fines and inflict punishments after conviction upon all violators of the laws and ordinances of said city by fine not to exceed \$1,000.00, or by labor on the streets or public works of said city under the control and direction of the proper officers, not to exceed six months, or by confinement in the city jail not to exceed six months, either one or more or all, in the discretion of the judge or judge pro tempore trying the case, and all sentences may be in the alternative and fines may be imposed with the alternative of either or both of the other punishments in the event the fines are not paid. Upon failure or refusal of any person to pay promptly any fine or costs imposed by the municipal court, the same may be enforced and collected by an execution issued and directed as is provided for the issuance and collection of tax executions by the city and levies may be made and sales there under may be conducted in the same way, this method being cumulative and to be used at the option of the commission of the City of Waycross.

(B) The municipal court shall have jurisdiction to try and determine all misdemeanor traffic offenses as authorized by O.C.G.A. §§ 40-6-372 through 40-6-376, and such other offenses as authorized presently, or in the future, by state law. The municipal court may prescribe punishment for offenses within its jurisdiction to the fullest extent allowed by state law.

(C) The municipal court may fix punishment for offenses within its jurisdiction, including both fines and imprisonment or alternative sentencing; provided that such fines or imprisonment does not exceed the statutory limits as now exist or hereafter provided by law.

(D) The municipal court shall have jurisdiction to forfeit all appearance bonds and recognizance returnable to said court and to hear, try and determine all issues made therein and to render judgment on the same; and also to try all nuisances and questions arising in reference thereto and to grant judgments for the abatement of the same and for the removal thereof.

(E) The municipal court shall have authority to recommend to the city council for approval a schedule of fees to defray the cost of operation.

(F) The municipal court shall have authority to establish bail and recognizance to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as security for appearances of persons charged with violations. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited to the judge presiding at such time and an execution issued thereon by serving the defendant and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash

or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the City of Waycross, or the property so deposited shall have a lien against it for the value forfeited.

(G) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears, by probable cause, that a state law has been violated.

(H) The municipal court shall have the authority to administer oaths and to perform all other acts necessary or proper to the conduct of said court.

(I) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoena, and warrants which may be served as executed by any officer as authorized by this Charter or by state law.

(J) The municipal court shall have the authority to punish those in its presence for contempt; provided that such punishment shall not exceed the statutory limits for fines and imprisonment for such municipal courts.

(K) The municipal court is specifically vested with all of the judicial jurisdiction and judicial powers throughout the entire area of the City of Waycross granted by state laws generally to municipal courts, including the power to impose sentences for those offenses that carry a maximum penalty under state law of up to twelve months imprisonment, and particularly by such laws as authorize the abatement of nuisances.

(L) The judge or judge pro tempore of the municipal court shall be, to all intents and purposes, a justice of the peace, and shall be authorized and empowered to issue warrants for offenses committed within the jurisdiction of the City of Waycross for police purposes, against the penal laws of the state, this either before or after the hearing or trial of the charge in said municipal court, and consequently where, in the course of an investigation of a matter in said municipal court, it shall appear that the penal laws of the state have been violated, it shall be the duty of the judge or judge pro tempore to bind over the offender to the proper court having jurisdiction of such matters in said County of Ware; and to that end the judge or judge pro tempore shall have the power and authority to commit such offender or offenders to the county jail of said county or admit them to bail, in bailable cases, for their appearance at the next term of a court of competent jurisdiction to be held in and for said county.

(4) Contempt

(A) The judge or judge pro tempore of municipal court shall have the authority to issue attachment and inflict summary punishment for contempt of court in cases of:

- (i) Misbehavior of any person or persons in the presence of such court or so near thereto as to obstruct the administration of justice;
- (ii) Misbehavior of any of the officers of the court in their official transactions; or
- (iii) Disobedience or resistance of any officer of the court, party, juror, witness, or other person or persons to any lawful writ, processed order, rule, decree, or command of the court.

(B) The judge or judge pro tempore of the municipal court shall have the power and authority to punish for contempt by fine not to exceed \$1,000.00, or confinement in the city jail not to exceed six months, either one or more or all, in the discretion of the judge or judge pro tempore trying the case, and all sentences may be in the alternative and fines may be imposed

with the alternative of either or both of the other punishments in the event that the fines are not paid. Upon failure or refusal of any person to pay promptly any fine or cost imposed by said judge or judge pro tempore, the same may be enforced and collected by an execution issued and directed as is provided for the issuance and collection of tax executions by the city and levies may be made and sales there under may be conducted in the same way, this method being cumulative and to be used at the option of the commission of the City of Waycross.

(5) Docket

There shall be kept in said courthouse one or more dockets, on which shall appear the name of each person arrested by the officers of the city for any offense against the municipal ordinances or laws in force within the jurisdictional limits of the city, and a brief and clear statement of the offense with which such person is charged. Upon the trial of such person, the sentence imposed or the disposition made of the case shall be entered in writing opposite the name and charge by judge or judge pro tempore of said court, which respective entries shall be signed by the judge or judge pro tempore in such cases.

(6) Summons and Subpoena

(A) The municipal court shall have power to compel the attendance of persons charged with the violation of any of the city ordinances or laws of the city, by summons, which summons shall be issued by the city clerk and bear teste in the name of the judge of municipal court, and shall set forth the nature of the charge or case, and the time set for trial or hearing, and shall be served upon the defendant by any officer or member of the police force. Likewise said court shall have power to compel the attendance of witnesses in all proceedings by issuing subpoenas which shall be similarly tested, issued and served.

(B) The municipal court shall have the power to punish any person disobeying such summons or subpoenas as for contempt. Any person who may be charged with contempt may be arrested by attachment in writing or warrant signed by the judge or judge pro tempore, which said attachment or warrant shall be executed by any member of the police force.

(7) Trial

The cases before the municipal court shall be tried as speedily as possible. With due regard to the rights of the accused and of the city, continuances may be granted by the court upon proper showing made, in accordance with the rules governing such matters in the superior courts of the said state, but such continuances shall be only until a time when the case can be properly tried in the discretion of the presiding judge or judge pro tempore.

(9) Bonds and Forfeiture

(A) When any person who is charged with an offense against the laws or ordinances of the city, or who is arrested for such offense, shall give bond for his or her appearance at any session of municipal court, and if such person shall fail to appear at the time appointed in said bond, then and in such event said bond shall be forfeited and the amount of same collected from the principal and sureties thereon in a manner to be provided for by ordinance of the city. And

said commission is hereby expressly authorized and empowered to provide by ordinance for the forfeiture and collection of such appearance bonds similarly to the way in which they are forfeited in the superior courts in this state, and said municipal court is hereby clothed with full power and authority to forfeit said appearance bonds and grant judgments upon the same for the amounts thereof, in the same way that superior courts grant such judgments. On the entering of such judgment, the city clerk shall issue an execution against the principal and surety or sureties on such bonds in conformity with such judgment, and in the form and manner prescribed for executions, issued by the city for taxes, which executions shall be placed in the hands of the city marshal who shall proceed to enforce and collect the same as tax executions of the city are enforced and collected.

(B) In any case where any person charged with an offense against the ordinances of the city, or arrested for such offenses, has deposited a sum of money as a bond for his appearance in said municipal court, and similarly where some other party has deposited a sum of money for the appearance of such person in said municipal court, then and in the event such person does not appear at the time appointed, for whose appearance such sum of money was deposited in lieu of a bond as aforesaid, said sum of money shall be forfeited instanter by the judgment of the municipal court entered upon the municipal court docket and shall be paid over to the city treasurer as the property of said City of Waycross.

(C) No resident of Ware County, Georgia, who is not a resident of the City of Waycross, Georgia, shall be prohibited from giving a property bond, solely on the basis of residency, for the appearance in the municipal court of a person who is charged with an offense against the laws or ordinances of the City of Waycross. The means and method for giving bond, forfeiture of bond, execution, and judgment thereon shall be established by the Code of the City of Waycross, Georgia, the ordinances and laws applicable to the City of Waycross, Georgia. Any such existing means and method in said Code, ordinances, as well as any amendments thereto, and laws shall apply to property bonds under this paragraph.

(D) If Ware County residents who are not residents of the City of Waycross give bond for a person or persons to appear in the municipal court, and if such person shall fail to appear at the time appointed in said bond, then in such event said bond shall be forfeited and the amount of same collected from the principal and his sureties as established by the ordinances and laws of the City of Waycross, Georgia, and general laws of the State of Georgia applicable to said court. Any ordinances and laws in effect at the time this ordinance is adopted, as well as any amendments that may be adopted from time to time, shall apply to persons and bonds which are given by Ware County residents who are nonresidents of the City of Waycross.

(10) Costs

Said commission shall have the power to provide by ordinance for the charge and collection of all items of costs in cases brought into said municipal court, such as are usually incident and lawfully chargeable to the prosecution of said cases, same to be added to the amount of the fines imposed and collected, and then to be paid over to the proper officers for whose use they are charged. The city clerk, and the marshal of the city, or such police officer as he may deputize, shall be the clerk and marshal respectively of said municipal court and shall serve same in such capacity, and their duties and fees or costs shall be such as usually appertain to such officers in courts and as may be fixed by ordinance, and they shall be entitled to receive such

fees or costs for their services, in said court, when same are collected along with the fines, as above provided, but not otherwise. They shall not be entitled to any payments on account of solvent costs.

(11) Certiorari

The right of certiorari from the decision and judgment of the municipal court shall exist in all cases, and any and all persons who shall complain, and take exception at any decision or judgment rendered in said municipal court, shall have the right to have same reviewed by a writ of certiorari which shall be applied for, issued and heard and determined under the provisions of the laws of the State of Georgia in such cases made and provided.

(12) Conditional Discharge

The city commission, by ordinance, may authorize the judge of the municipal court to grant a conditional discharge for possession of one (1) ounce or less of marijuana as a first offense and for dismissal of charges.

(Ga. Laws 1989, p. 4916, § 2; Ga. Laws Act No. 927, 1992; Ord. No. 96-26, § 1, 8-20-96)
Code reference—Municipal Court, Ch. 29

Section 105. – City Attorney, Judge of municipal court separate offices.

The offices of city attorney and judge or judge pro tempore of municipal court shall be separate and distinct offices, and the judge or judge pro tempore of municipal court shall not be competent or eligible to hold the office of city attorney of said city during the term for which he was elected.

(Ga. Laws 1989, p. 4916, § 2)

Code of Ordinances Amendments

Sec. 1-6. - General penalty; continuing violations.

(A) Whenever in this Code or in any ordinance or resolution of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code, ordinance or resolution, the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of such provisions of this Code or any such ordinance or resolution shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the city jail not to exceed six (6) months, either one (1) or more, or all in the discretion of the judge or judge pro tempore of the municipal court, and all sentences may be in the alternative and fines may be imposed with the alternative of either or both of the other punishments in the event that the fines are not paid. Upon failure or refusal of any person to promptly pay fine or cost imposed by said judge or judge pro tempore, the same may be enforced and collected by an execution issued and directed as is provided for the issuance and collection of tax executions by the city and levies may be made and sales there under may be conducted in the same way, this method being cumulative and to be used at the option of the commission of the city, subject to all limitations contained in the Charter of the

City. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance, and may be abated by the city as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(B) Any person against whom a fine is imposed by the municipal court of the city for the violation of any of the laws or ordinances of the city or the laws of the state shall be subject to an additional assessment or cost in the amount of \$10.00 per violation, said sum to be used for improvement or enhancement or upgrade of the information technology used by the city police department, and all said costs to be set aside in a separate fund earmarked for that purpose; provided, however, said additional assessment or cost shall not be imposed or added for any offense where prohibited by law.

(Code 1952, Ch. 1, § 4; Ord. of 9-4-62, § 1; Ord. No. 94-23; § 1, 12-6-94; Ord. No. 04-06, § 1, 4-20-04)

State law reference— Organization of public works camps by cities, Ga. Code Ann., § 69-205.
Sec. 29-1. - Where sessions held.

The sessions of the municipal court shall be held in the courtroom of the police administration building located at number 512 Oak Street in the city.
(Ord. of 1-2-73, § 1)

Sec. 29-2. – Judge Pro Tempore.

The mayor shall appoint an attorney who resides in the city to serve as judge pro tempore at such times as the regularly elected judge is absent from a sitting of the municipal court or is disqualified for any reason to try a case that is pending in the court. The mayor may make such appointment for a term concurrent with this term of office as mayor, or he may make appointments from time to time as the occasion for such appointment arises. Any person so appointed by the mayor to serve as judge pro tempore under the provisions of this section shall have and possess and may exercise, at the time he is acting as judge pro tempore, all powers which are vested by law in the judge of municipal court.

(Code 1952, Ch. 18, § 3)

Secs. 29-3—29-15. - Reserved.

Sec. 29-41. - Assessment and evaluation requirement.

The judge pro tempore of the municipal court may, as part of the sentence for any person convicted of an offense in said court, require such person to submit to assessment and evaluation for alcohol and/or substance abuse. The judge or judge pro tempore of said court may withhold full sentencing pending receiving results of said assessment and evaluation.

(Ord. No. 89-10, § 1, 6-20-89)

Sec. 29-42. - Counseling and treatment.

Either before the assessment and evaluation or after receiving the results of said assessment and evaluation, said judge, as part of the sentence may require the convicted offender to submit to counseling, treatment (including admission into a drug or alcohol treatment center), as well as additional assessment and evaluation.

(Ord. No. 89-10, § 2, 6-20-89)

Sec. 29-43. - Application of article.

The provisions of this article shall apply only to those persons convicted of offenses in said court and (1) where the offense involves the use of alcohol or substances that are or can be abused, or (2) where there is evidence that alcohol or substances contributed to or were involved in the commission of the offense.

(Ord. No. 89-10, § 3, 6-20-89)

Sec. 29-44. - Payment of costs; selection of supervising agency.

(A) The judge or judge pro tempore of the municipal court may further order that the convicted offender pay the costs of such assessment and evaluation, as part of the sentence for the offense. The judge of said court may also order the convicted offender to pay the costs of such counseling, treatment (including admission into a drug or alcohol treatment center), as well as additional assessment and evaluation; provided, however, that such costs shall not exceed the amounts permitted by law.

(B) The judge or judge pro tempore of municipal court shall select the agency, department, bureau or facility to conduct such evaluations, assessments, counseling, and treatment, but shall select only those qualified by experience and training.

(Ord. No. 89-10, § 4, 6-20-89)

Sec. 29-45. - Definitions.

Substance abuse shall mean the abuse, addiction or the dependence upon alcohol, narcotics, as well as those substances described and defined in O.C.G.A. Sections 16-13-24, 16-13-25, 16-13-26, 16-13-27, 16-13-28, 16-13-29, which sections, as enacted and effective as of July 1, 1989, are hereby incorporated by reference, as fully as if set forth verbatim herein.

(Ord. No. 89-10, § 5, 6-20-89)

Sec. 29-46. - Effective date.

This article shall be effective July 1, 1989.

(Ord. No. 89-10, § 6, 6-20-89)

Sec. 29-47. - Conflicts.

All ordinances and parts of ordinances in conflict herewith are hereby repealed. All sections and paragraphs of the Code of the City of Waycross, Georgia (and parts thereof) in conflict herewith are hereby repealed.

(Ord. No. 89-10, § 7, 6-20-89)

FOOTNOTE(S):

(79) Editor's note— Ord. No. 89-10, adopted June 20, 1989, did not specifically amend the Code and at the discretion of the editor §§ 1—7 have been included herein as Art. III, §§ 29-41—29-47. (Back)

(79) Charter reference— Authority for article, § 2.3. (Back)

(79) Cross reference— Drunkenness, § 22-12; alternative sentencing for alcohol and drug related offenses, § 22-13; offenses regarding narcotic drugs, § 22-46 et seq. (Back)

Sec. 29-16. - Acceptance; approval of surety.

The police department of the city shall accept bail in such reasonable amount as may be just and fair for any person who is charged with an offense against the laws or ordinances of the city or who is arrested for such offense for his appearance before the municipal court of the city; provided, that the surety tendered and offered on such bond is approved by the chief of police or a captain or a lieutenant of police of the city.

(Code 1952, Ch. 18, § 5)

Sec. 29-17. - Forfeiture upon nonappearance of principal.

Upon the failure of any person charged with a violation of any ordinance of the city, such person being principal in a bond given to secure his attendance at the time appointed in the bond, to appear in the municipal court at the time appointed in such bond, the city attorney, solicitor, or in their absence, the chief of police shall proceed to forfeit such bond. Such bond shall be forfeited in the municipal court and the amount of same collected from the principal and the sureties thereon in the manner hereinafter provided in this article.

(Code 1952, Ch. 18, § 6)

Sec. 29-18. - Scire facias on forfeited bonds.

The city clerk shall issue a scire facias on all forfeited bonds against the principal and his sureties, which shall be served by a member of the police force of the city, if the parties are residents of the city. If the principal or sureties reside in the county outside of the city, such party shall be served by the county sheriff. The scire facias shall be served at least twenty (20) days before the day of the sitting of the municipal court to which it is returnable. If the principal or his

sureties reside out of this county or the state, a scire facias returnable to the municipal court may be served by publication as in cases of scire facias to revive judgment in the superior courts of the state.

(Code 1952, Ch. 18, § 7)

Sec. 29-19. - Judgment on scire facias.

If, at the return time of such scire facias, no sufficient cause shall be shown to the contrary, judgment, on motion, shall be entered by the judge or judge pro tempore of the municipal court against such principal and sureties, or such of them as have been served.

(Code 1952, Ch. 18, § 8)

Sec. 29-20. - Execution.

On the entering of such judgment, the city clerk shall issue an execution against the principal and the surety or sureties on conformity with such judgment, and in substantially the form and manner that executions are issued by the city for taxes. The execution shall be placed in the hands of the city marshal who shall proceed to collect the same as tax executions are enforced and collected.

(Code 1952, Ch. 18, § 9)

Sec. 29-21. - Effect of article on forfeitures.

This article shall in no way affect the procedure now in force for the forfeiture of any sum of money which is deposited by any person for his appearance in the municipal court.

(Code 1952, Ch. 18, § 10)

Sec. 29-22. - Additional methods for giving of, and forfeiture and collection of, appearance bonds.

(A) When any person is charged with an offense against the laws or ordinances of the City of Waycross, or when any person is arrested for any such offense, such person shall:

(1) Give bond for his or her appearance at any session of the municipal court of the City of Waycross in the same manner as bonds are given for appearance in the superior courts of the State of Georgia; or

(2) Give bond in any manner now provided by the Charter, Code, ordinances, resolutions and laws of the State of Georgia applicable to the City of Waycross, Georgia.

(B) If any person so charged shall fail to appear at the time appointed in said bond, then and in such event said bond or recognizance shall be forfeited and the amount of same collected from the principal and his sureties thereon as set forth herein.

(C) A bond forfeiture proceeding shall be commenced immediately upon the failure of appearance of a principal of any bond or recognizance given for the appearance of that person.

(D) Execution hearing:

(1) The judge or judge pro tempore of the municipal court shall, upon the failure to appear, set an execution hearing for a date within thirty (30) days after the failure to

appear or as soon thereafter as the case may be heard. Notice of the hearing shall be mailed by first class mail by the clerk of court to the principal and to each surety at the addresses given on the bond.

(2) If at the hearing it is determined that the bond should be forfeited, the judge or judge pro tempore shall so order and an execution on the order shall immediately be issued.

(E) Nonappearance; when no judgment shall be rendered decreeing forfeiture:

(1) No judgment shall be rendered decreeing the forfeiture of any appearance bond if it is shown to the satisfaction of the court by the sworn statement of a reputable physician that the principal in the bond was prevented from attending by some physical disability.

(2) No judgment shall be rendered decreeing the forfeiture of any appearance bond if it is shown to the satisfaction of the court that the principal in the bond was prevented from attending because he was detained in a penal institution in another jurisdiction. A sworn affidavit of the warden or other responsible officer of the penal institution in which the principal has been detained shall be considered adequate proof of the principal's detention.

(3) If the prosecution does not try the charges against a defendant within a period of three (3) years after the date of posting bond, no judgment rendered after such period decreeing the forfeiture of the appearance bond may be enforced against the surety of the bond. This provision shall not apply where the prosecution's failure to try the charges is due to the fault of the defendant.

(4) No judgment shall be rendered decreeing the forfeiture of any appearance bond if it is shown to the satisfaction of the court that prior to the hearing date set pursuant to subsection (d) above the principal in the bond is in the custody or detention of some other responsible officer of the jurisdiction in which forfeiture proceedings were commenced pursuant to this section. A sworn affidavit of the responsible officer having custody or detention of principal shall be considered adequate proof of such custody or detention.

(F) This section shall not alter or amend the present means and method for the giving of appearance bonds by posting a cash bond in United States coin and currency or for the forfeiture and collection of the same. The purpose of this section is to provide additional means and methods for giving an appearance bond and for forfeiture and collection of the same.

(Ord. No. 86-23, §§ 1—6, 5-6-86; Ord. No. 86-32, 9-2-86)

Sec. 29-23. - Bond to remain in effect until disposition of case completed or until released by court.

Once a bond signed by a person as surety has been posted and given, the bond and surety shall remain in effect until the disposition of the case for which it was posted has been completed, including the payment of any fines imposed by the municipal court, or until the municipal court otherwise releases said bond.

(Ord. No. 90-11, § 1, 4-17-90)

Secs. 29-24—29-40. - Reserved.

Commissioner Diane Hopkins made the motion to approve the Resolution of the City of Waycross, Georgia to Authorize the Approval of an Amendment to the City's Charter Regarding Police Court as presented. The second was made by Commissioner William Simmons. All voted in favor and the motion was approved.

A Resolution of the City of Waycross, Georgia to Approve Amendment No. 10 to the Agreement Between ESG Operations, Inc. and the City of Waycross, Georgia for Operations, Maintenance and Management Services was presented:

RESOLUTION NO. 13-14

**A RESOLUTION TO APPROVE AMENDMENT NO. 10
TO THE AGREEMENT BETWEEN
ESG OPERATIONS, INC. AND THE CITY OF WAYCROSS, GEORGIA
FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES;
AND FOR OTHER PURPOSES**

WHEREAS, the City of Waycross, Georgia entered into an agreement with ESG Operations, Inc. (ESG) on March 1, 2004 as amended by Amendment No. 2 to add water services, for operations, maintenance and management services at the City's wastewater treatment plant; and

WHEREAS, ESG has performed under the terms of this agreement to date and all amendments thereto and City has performed under the terms of the agreement and all amendments thereto; and

WHEREAS, the specific changes as reflected in Amendment No. 10 and attached to this Resolution will extend the ESG Contract Term for five years through fiscal year 2020; ESG will provide all vehicles for its scope of services allowing the City to immediately surplus eleven City-owned vehicles and avoid annual insurance and maintenance cost of approximately \$60,000; ESG will guarantee additional leachate revenue of \$378,000 per year retroactive to January 1, 2013; ESG will provide \$75,000 per year in Professional Engineering support to the City; and, ESG will eliminate the annual CPI increase in the existing contract, with projected savings to the City of \$650,000 over five years.

WHEREAS, the term of the amendment for the fiscal year shall be from July 1, 2013 through June 30, 2014 and shall be subject to automatic renewal in accordance with the terms of the original agreement as amended; and

WHEREAS, said matter of amendment having been considered.

NOW THEREFORE BE IT RESOLVED by the Commission of the City of Waycross, Georgia that Amendment No. 10 to the Agreement between ESG Operations, Inc. and the City of Waycross, Georgia be and is hereby approved.

BE IT FURTHER RESOLVED by the Commission of the City of Waycross, Georgia that the Mayor and the City Clerk are hereby authorized, directed and empowered to execute the Amendment No. 10 on behalf of the City of Waycross.

SO RESOLVED this the 5th day of March, 2013.

CITY OF WAYCROSS, GEORGIA
CLARENCE E BILLUPS, Mayor

ATTEST:
JULIE C. DINKINS, City Clerk

AMENDMENT NO. 10
to the
AGREEMENT Between
ESG Operations, Inc.
And
Waycross, Georgia
For
Operations, Maintenance and Management Services

This Amendment is made and entered into this 5th day of March, 2013 by and between the City of Waycross, Georgia (hereinafter “Owner”) and ESG Operations, Inc. (hereinafter “ESG”) This is Amendment No. 10 to the Agreement dated the 1st day of March, 2004, (the “Agreement”) between Owner and ESG.

NOW THEREFORE, Owner and ESG agree to amend the Agreement as follows:

REPLACE Article 2.10 with the following new Article to Section 2. **ESG’s SCOPE OF SERVICES:**

2.10 ESG will provide all vehicles for its scope of services allowing the City to immediately surplus the eleven (11) City-owned vehicles. This will immediately reduce the City’s cost to insure, maintain and own these vehicles. ESG will continue to use the City-owned Vac Truck and large tractors to cut right-of-way. This equates to \$60,000 annually in avoided cost for the City.

ADD the following new Articles to Section 2. **ESG’s SCOPE OF SERVICES:**

- 2.21 **Additional Leachate Revenue.** ESG will guarantee \$378,000 per year “loads to disposal revenue” in additional revenue (\$1,890,000 cumulative over the next five years) through ESG’s marketing, management and technical support regarding treatment of outside wastewater bulk indirect customers (primarily landfill leachate). This will be tracked on a monthly basis, and reconciled annually. This guarantee is retroactive to January 1, 2013.
- 2.22 ESG will provide \$75,000 per year in Professional Engineering support to the City. This will include, but is not limited to storm water and general civil engineering, water and wastewater design, engineering associated with future permit renewals, and general support to the City’s current City Engineer. ESG will proceed immediately with an engineering study to determine the cost of services for treating septage waste. This will also include the design of facilities upgrade associated with nutrient removal (most likely phosphorus removal anticipated in next year’s permit issuance).

AMEND Article 4.2 with the following language regarding COMPENSATION:

- 4.2 Elimination of Appendix F and the reference to annual “CPI increase” in the contract. This will eliminate the obligation for the City to give ESG an annual increase. (For example, assume a CPI of 2 percent per year; this represents a first year savings of \$50,000. Since this cost is cumulative that savings over 5 years is over \$650,000 to the City).

AMEND Article 7 with the following language regarding TERM AND TERMINATION:

- 7.1 Except as set forth in the original contract and subsequent Amendments thereto, the term of this Agreement shall be extended for an additional five (5) years from the current expiration date.

All other terms and conditions remain in effect in accordance with the Agreement referenced in this Amendment.

Both parties indicate their approval of this Amendment by signatures below.

Authorized Signatures:

John Clay Sykes, PE
Title: Principal
ESG Operations

Daniel E. Groselle, PE
Title: Principal
ESG Operations, Inc.

Authorized Signature:

Clarence E. Billups
Title: Mayor
City of Waycross, Georgia

Attest:

Julie Dinkins, City Clerk

Date: March 5, 2013

Date: March 5, 2013

Commissioner Marian Solomon-Gaines made the motion to approve A Resolution of the City of Waycross, Georgia to Approve Amendment No. 10 to the Agreement Between ESG Operations, Inc. and the City of Waycross, Georgia for Operations, Maintenance and Management Services as presented. Commissioner Norman Davis seconded the motion; all voted yes and the motion carried with a 4-0 vote.

Commissioner Norman Davis made a motion to rescind the Notice of Termination Letter sent to ESG Operations, Daniel E. Groselle and J Clay Sykes dated February 27, 2013. Commissioner Diane Hopkins seconded the motion; all voted positively and the motion carried rescinding the Notice of Termination.

A Resolution of the City of Waycross, Georgia to Waive Half Tap Fee for Residents in the 1400 Block of Myers Avenue for One Year was presented for review.

**A RESOLUTION OF THE CITY OF WAYCROSS, GEORGIA
TO WAIVE HALF TAP FEE FOR RESIDENTS IN THE 1400 BLOCK OF MYERS
AVENUE FOR ONE YEAR; AND FOR OTHER PURPOSES.**

WHEREAS, Residents along the 1400 block of Myers Avenue between Garlington Avenue and Crawford Street have experienced multiple sewer service issues due to lack of a sanitary sewer main in front of their houses; and

WHEREAS, the City recently installed a new sanitary sewer main on Myers Avenue with sewer service stub-outs at each property line, providing customers an opportunity to reroute their sewer lines to the front of their property; and

WHEREAS, City Policy dated September 20, 1982 requires the resident and/or property owner to pay half the normal tap fee prior to connection to the new sewer line; and

WHEREAS, the City has been requested to waive the half tap fee of \$250.00 to help offset anticipated plumbing expenses to be incurred by said residents for connection to the new line for a period of one year; and

WHEREAS, said matter being considered.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Waycross that the City of Waycross waive the half tap fee of \$250.00 for the residents in the 1400 Block of Myers Avenue for a period of one year, to help offset anticipated plumbing expenses to be incurred by said residents for connection to the new sewer line.

SO RESOLVED this the 5th day of March, 2013.

CITY OF WAYCROSS, GEORGIA
CLARENCE E BILLUPS, Mayor

ATTEST:
JULIE C. DINKINS, City Clerk

A motion to approve A Resolution of the City of Waycross, Georgia to Waive Half Tap Fee for Residents in the 1400 Block of Myers Avenue for One Year was presented by Commissioner Norman Davis. Commissioner Marian Solomon-Gaines seconded the motion. All Commissioners voted positively and the motion carried 4-0.

A Resolution of the City of Waycross, Georgia to Approve an Application to be Submitted by Solon Corp for Participation in Georgia Power Advanced Solar Initiative was presented.

RESOLUTION NO. 13-16

**A RESOLUTION OF THE CITY OF WAYCROSS, GEORGIA
TO APPROVE APPLICATION TO BE SUBMITTED BY SOLON CORP FOR
PARTICIPATION IN GEORGIA POWER ADVANCED SOLAR INITIATIVE; AND
FOR OTHER PURPOSES.**

WHEREAS, Georgia Power has proposed the Georgia Power Advanced Solar Initiative (“GPASI”), a solar energy purchase program that encourages new opportunities for solar development in Georgia; and

WHEREAS, Solon Corp has been a pioneer in the planning and construction of turnkey solar power plants for commercial and large-scale utility applications around the world; and

WHEREAS, Solon Corp has proposed to submit a non-binding application to the Georgia Power Advanced Solar Initiative program for the City of Waycross, to include a Letter of Intent to Lease Real Estate from the City of Waycross and will designate suitable land area for the construction of a solar power plant to be leased from the City of Waycross, that will generate up to \$10,000 in additional annual revenue for the City of Waycross, with no production costs to the City; and

WHEREAS, said matter having been considered.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Waycross that the City of Waycross hereby authorizes and approves an Application to be submitted by the Solon Corp for participation in Georgia Power Advanced Solar Initiative program.

BE IT FURTHER RESOLVED that the Mayor and City Manager be and are hereby authorized, directed and empowered to execute the Application and any other necessary documents on behalf of the City of Waycross, and do all the acts and things necessary to give effect to this Resolution.

SO RESOLVED, this 5th day of March, 2013.

CITY OF WAYCROSS, GEORGIA
CLARENCE E BILLUPS, Mayor

ATTEST:
JULIE C. DINKINS, City Clerk

Commissioner Marian Solomon-Gaines made the motion to approve the Resolution of the City of Waycross, Georgia to Approve an Application to be Submitted by Solon Corp for Participation in Georgia Power Advanced Solar Initiative. Commissioner William Simmons seconded the motion; all voted in favor and the motion carried.

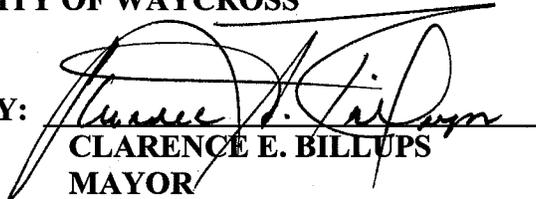
James Thomas, 520 South Crawford Street, requested an explanation why he does not receive his water bill. The City Manager is to check this out and respond to Mr. Thomas.

Dr. Richard Hudson appeared before the Commission requesting a response to a letter he had written to the Commission. Dr. Hudson asked if any action had been taken on the offer from the bank on the Bailey Street property, if so, what was the City's response. Attorney Huey Spearman replied that the City cannot discuss real estate acquisition in an open meeting. Dr. Hudson then asked when that information would be made public. Attorney Spearman responded that once action is taken, it would then be made public.

Following closing remarks, Commissioner Norman Davis made the motion to adjourn the meeting; seconded by Commissioner Marian Solomon-Gaines, all voted in favor and Mayor Billups adjourned the meeting.

CITY OF WAYCROSS

BY:


CLARENCE E. BILLUPS
MAYOR

ATTEST:


JULIE C. DINKINS, CITY CLERK