

**BOARD OF MAYOR
AND COMMISSIONERS**

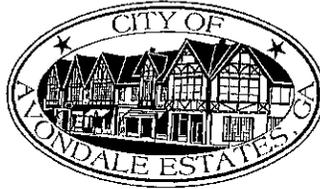
JONATHAN ELMORE
MAYOR

TERRY GIAGER
MAYOR PRO TEM

RANDY BEEBE
COMMISSIONER

BRIAN FISHER
COMMISSIONER

ADELA YELTON
COMMISSIONER



R. CLAI BROWN
CITY MANAGER

GINA HILL
CITY CLERK

ROBERT E. WILSON
CITY ATTORNEY

STEPHEN W. NICHOLAS
CITY JUDGE

**BOARD OF MAYOR AND COMMISSIONERS
SPECIAL CALLED MEETING**

June 22, 2016

5:30 p.m.

MINUTES

Members Present: Jonathan Elmore, Mayor
Terry Giager, Mayor Pro Tem
Randy Beebe, Commissioner
Brian Fisher, Commissioner
Adela Yelton, Commissioner

Staff Present: Clai Brown, City Manager
Gina Hill, City Clerk
Stephen Quinn, City Attorney
Bob Wilson, City Attorney

Item No. 1 Meeting Called to Order

Item No. 2 Adoption of Agenda
Mayor Elmore moves to adopt agenda. Commissioner Fisher seconds. All ayes.

Item No. 3 Agreement to Provide Interim Funding to the Downtown Development Authority (DDA)

Mayor Elmore: Our attorneys drafted an intergovernmental agreement basically to provide the DDA with an initial payment of \$22,500 within 30 days of this agreement and another \$10 thousand within 60 days and \$10 thousand within 90 days. The Board also agrees to let the DDA use the property at 70 North Avondale Road for the ArtLot. We will work out a long-term agreement with the DDA in that 90 days. That's the gist of the IGA. We're voting to provide interim funding for the DDA while we negotiate a long-term agreement.

Mayor Pro Tem Giager: In our meeting on Monday, I was never aware that we had a consensus on approving \$12,500 for the ArtLot. I've spent about 10 hours since that meeting online researching ArtLots, including locations, funding and duration. None are similar to what's proposed here. They were in major metropolitan areas in very dense pedestrian areas surrounded by thriving businesses. Most were open for a day or two. Most were self-funding. I want the \$12,500 to come off the IGA. Commissioner Fisher, as a commercial lender, if you had this business plan would you loan them \$48,000?

Commissioner Fisher: Well, I don't think they're asking for \$48,000. I think they're asking us for \$12.5 thousand.

Mayor Pro Tem Giager: They're asking the City for \$48 thousand. Actually \$49 thousand.

Commissioner Fisher: I think it's appropriate. I think the \$12.5 thousand needs to match the budget. It's not a blank check. There should be checks and balances. They should submit receipts to the DDA. What they spend should be posted on a website. It could even end up being less than that.

Mayor Pro Tem Giager: What about you, Commissioner Yelton? You are a certified public accountant. Have you seen the business plan? Would you give them the money?

Commissioner Yelton: I approach it a little differently than you. I think it could be the start of something great. And I wonder what I can do to help this initiative instead of looking at everything that's wrong with it. Everything has to start somewhere. How can we help this be a success? That's what I think my role is as a leader in the community.

Commissioner Beebe: I agree with Commissioner Yelton. Instead of investing in a business, it's like investing in the City. Even if it's not as successful as we hope, we can gain information from it. We need to know if people will cross the hedge. After all, we're thinking about spending a couple of million dollars on a park over here. It will help us discover what people are looking for. It's a little gray area about our money versus the DDA's money. When the bonds on the Department of Juvenile Justice building are paid off it won't be as gray. But we promised the DDA from the beginning that we would support them. We need to put our money where our mouth is.

Mayor Pro Tem Giager: I don't have a problem funding the DDA. I have a problem funding this project the way it stands now. The solution, in my opinion, is that we should do some short-term work. Maybe try it for two weeks or a month without building all the infrastructure. There would be security issues anyway. I suggest we give them a lot less – maybe \$4,000 – and see what happens. I think \$49,000 is too big of a risk to take with taxpayer money.

Commissioner Fisher: The Board just funded \$15,000 for the community promotion program and we did very little due diligence on those applicants. And the whole idea behind was "hey, what if this works?" Is it worth the investment to see what the possible return could be? I think so. We're not going to lose \$50 thousand if they try it for a month and it doesn't work. We are going to have a lot of firsts in trying to find the magic formula to lure people downtown.

Mayor Pro Tem Giager: We can find cheaper ways to experiment.

Commissioner Beebe: Mayor Pro Tem, would you be against matching funds that the Avondale Art Alliance is raising? I'm just throwing out ideas.

Mayor Elmore: I think this is a unique opportunity for us to put our money where our mouth is. Festivals we've funded are for a few days and we would try to keep the ArtLot open as long as possible. It will be events driven.

Commissioner Yelton: We need to define what success looks like and have clear metrics. You don't want to just spend a large amount of money and not know what you want in return. Figuring that out will be unique to our City.

Mayor Pro Tem Giager: Local business owners have told me their business actually goes down when there is a festival. We don't have the thriving businesses around that area like other ArtLots I researched.

Commissioner Yelton: Isn't it a chicken or the egg situation?

Mayor Pro Tem Giager: This is not the way to do it.

Mayor Elmore: We're trying to create interest in our downtown and I think the ArtLot will mimic what our town green will do. This is an events driven project put together by a proven team. I've heard overwhelming support for the idea. There is risk in everything but they're not asking for \$48,000. I think we need to give them a chance and see what the results are after three months. I think this is worthwhile. We can talk it to death and end up nowhere.

Commissioner Yelton: I want to add that I know the interim IGA focuses on financial support. Where do we mention city staff and city resources for their use.

Mayor Elmore: I saw something in their preliminary budget about an events coordinator.

Commissioner Fisher: In the interim IGA, the ArtLot and DDA seem to be together but I think of them as two separate issues.

City Manager Brown: It's set up that way because we know the \$12,500 is going to the ArtLot and that needs to be expressed. Something specific needed to be mentioned that they were going to spend the money on.

Commissioner Fisher: Would Finance Director Ken Turner continue to do the DDA's finances?

City Manager Brown: Yes, but the DDA would oversee the day-to-day finances of the ArtLot. City Hall does write out the checks for DDA expenses, however.

Commissioner Fisher: Here are some of the things I would like to see happen as part of due diligence. One is that receipts and work orders be submitted by the arts alliance pertaining to the ArtLot. The accounting should be posted on the city website. I think someone from the DDA should be on the ArtLot committee

and help pick the art installations, performances, etc. They would report to us on a quarterly basis about how successful it's been. We need to make sure we have the right insurance. It would be great if the police could be involved. I would also like a big picture of the arts in Avondale to be developed.

Mayor Elmore: Those are all good points.

Commissioner Yelton: Again, I'd like to see City staff take more of a role in projects led by the DDA. That could be on an interim basis while they try to hire someone. I would have liked to have seen two separate agreements or one main one with an addendum. That's because we're talking funding and property at the same time.

Mayor Elmore: What's the point of doing that, legally?

City Attorney Stephen Quinn: I would advise against it because, legally, it's a problem for the City to just turn money over to the DDA. I put it together so the City is exchanging money for a service.

Commissioner Fisher: Then how do cities fund DDAs and their operations?

City Attorney Quinn: In my limited personal experience, they don't. The DDA is envisioned by state law to own and rent property.

City Attorney Wilson: The DDA is created by the state and are separate from their cities. No city can legally fund a DDA. But the City can purchase a service from the DDA. That's what you're doing here. Putting all that in one document gave it more substance and makes it legally sound.

Mayor Pro Tem Giager: Regardless of how things are worded, the DDA's money is taxpayer money.

Public Comment

Elizabeth Goodstein/3243 Wiltshire Dr: My biggest concern is that this process is moving too fast. Residents aren't aware this is being discussed. It suggests that decisions have been made outside a public forum. Questions and concerns have been treated as hostile. We're all grateful to the arts alliance for starting the discussion. I'm concerned about the level of investment versus the level of plans. It's not convincing. Talking about this about an investment is misleading. There is no solid return here, only possibilities. We need more input and a longer discussion period. This doesn't fit in to a bigger picture of development for the City.

Rachel Herzog/DDA/Garage Door Studio: As a business owner, I have taken a big risk by opening a place in Avondale. What I'm hearing makes me sad because we have taken a chance and I feel the City is not at all. All the business owners have taken a huge risk. If we don't do something, businesses won't come here. Why would they? The City is falling so short that it is amazing to me. I know it's taxpayer money but the businesses pay taxes too and we see nothing in return. The City needs to take a chance because we all have.

Mayor Elmore: We hear you. That's why we'd like to do interim funding as soon as we can.

David Newbern/Avondale Arts Alliance/3202 Majestic Cir: This process has been going on for months with a tremendous amount of research. There are parks that have been open for an extended period of time with extended funding. We embrace the DDA's oversight and will be financially accountable. We will submit receipts, job bids, etc. We've been dealing with professionals, including a landscape architect. We've had discussions about security and visibility. We've incorporated these in our design. All the businesses want this. Businesses contribute to tax money and see nothing in return. The only thing the arts alliance ever intended was to increase the viability of the downtown. The group shifted our focus away from AutumnFest, which was only two days and cost about \$25,000. This is a lot less with more potential impact. The alliance wouldn't have invested so much time and energy if we didn't believe it would improve the City.

Ann VanSlyke/1067 Lakeshore Dr: I'm concerned about the lack of community input. The proposal seems hurriedly put together. I think parts of this have already been decided. We haven't seen much of a budget or list of programming. We don't know much about the team that put this together. A lot of expertise in the community has not been tapped. Is this the best site? Maybe one would be better. What about a pop up that moves around the City? I wish this was more transparent and inclusive. There could be bad feelings because of the rushed nature of this process.

Mayor Elmore: I understand the concern about the timeline. This was first brought up at the DDA's meeting last Monday. A lot of residents and business owners were there and it was very well received. We talked about it again two days later at the work session and this past Monday night at the Board meeting. I know it's a compressed timeline but we're trying to bring this up in a public forum as many times as we can. I've heard concerns but I've also heard overwhelming support. This project has some magic to it. I'm excited about it. I think we've been as transparent about this as we can.

Ann VanSlyke/1067 Lakeshore Dr: But community input hasn't had a chance to impact the project.

Klaus Van den Berg/3243 Wiltshire Dr: I've addressed some of my concerns in letters to the DDA and BOMC. I agree we don't have the urban density for this type of project. This is not a great site for performances. It's too loud. I'm a performer and I've had lots of experience with festivals, etc. There is a lot of money being requested too. A lot could be done with that money.

Candace Jones/9 Fairfield Dr: I agree this process is going too fast and the proposal is inadequate. There hasn't been public input at all the meetings. I would like to see a more scaled down version. I suggest we give them some money and consider it an increase in our community promotion program. We need to be reasonable about what we give them and they need to prove that it works. I would like to see the businesses surveyed to see what they want. I want the arts alliance separated from the DDA in the IGA. I want to see a work plan. I think \$30,000 is a lot to give the DDA too.

Joe Anziano/3242 Wiltshire Dr: I'm not sure this is the right thing but we need to do something to support our businesses. Something smaller might be more appropriate. My big concern is the location. It's hard to even have a conversation when traffic is going by. I think we need to know more. Maybe it could be funded less on the front end. If it's successful we can throw more money at it.

Skye Westphal/Avondale Arts Alliance: I know there are concerns about money. If this is something you're in favor of, treat us like a start-up business. Give us some milestones to hit with additional funding as a possibility. For people worried about the timeline. We've had four meetings. I'm not sure if that's adequate. But it's been on Facebook where we've tried to get people to come to these meetings. It's been on Nextdoor too. The meetings have been well attended. It's been mentioned that we don't have a lot of professionals involved. Everyone on the alliance does other things but there is professional knowledge there. It's a pop up park, not the Empire State Building. I would love the ArtLot to be a catalyst for something bigger. Let us show the community what's possible.

Matt Delicata/DDA: I appreciate the comments. They're valid and we have the same concerns. The DDA supports the project and voted unanimously for it. We don't just hand over money to people. We take that responsibility very seriously. A proposal will be executed under which standards for payment will be laid out. The group behind this is a large group of well-respected and experienced individuals who have shown they can do this. There's a point where you have to step back and say are we investing in a group of people we trust to do something good with the money we have and move forward and get behind it. I understand there is risk and there are no guarantees. That's not a reason to not do it. I believe in this project.

Dave Deiters/DDA: I think we've been as transparent as possible. This is a group that has shown they can do events like this. It's a spark and can generate some momentum and that's what we're trying to do.

Renda Cornick/3231 Wiltshire Dr: I'm only here because some neighbors reached out to be here. I don't really know what's going on and I think there are many more people like me. I still don't know what this is about. I'm on Facebook and Nextdoor Avondale yet I still don't know anything about this.

Mayor Elmore: I don't want to see this project die. We also need to fund our DDA. That's what this is primarily about. This DDA that we carefully selected, that we need to trust, that is trying their best to help our businesses. We know that is paramount.

Commissioner Beebe: Are you talking about the \$30 thousand? Or that plus the \$12,500?

Mayor Elmore: I think they're both very important. As the attorney said, this is about money to provide services. They are out of money. If that means the \$30 thousand we originally talked about, then let's do it. I think that's the least we can do.

Commissioner Fisher: Neither are easy decisions. I would agree on both. It sounds like from a legal perspective we would need to. We are not always going to agree. That's actually a good thing. I think we get hung up on trying to get everyone to agree. Then you end up with something like Willis Park which took five years to do. I'm completely unwilling to accept that.

Commissioner Yelton: I'd like to thank everyone for coming today. I know everyone is here because they care about the City. I haven't heard one person say this was a terrible idea. It sounds like people like the idea but not so much how it's presented. I try to come in here hopeful to learn from others. I hope we can incorporate some of the comments and talk about what success looks like. Are we ready to vote today on the agreement in front of us the way it stands? Do you want to take a poll?

Commissioner Beebe: Everyone speaks with passion and makes very good points. I don't think I would vote for it in its current form. I say we should either put it off and have one more meeting on it. Or let's tweak the amount if that's what is holding a lot of people back. Let's look at cutting the 12.5 part. I don't think it will shut it down. We will be voting on this again in three months. I think that would be a compromise.

Commissioner Fisher: I appreciate everyone's input. I wish more people would come out because I don't think this is a big representation of our community. It's not just for this issue. A lot of people don't know what's going on. Like Commissioner Yelton said, no one has said it's a terrible idea. They would just like more information. That's fair. I think we have to trust the DDA and the arts alliance to use the money properly. I think the alliance has earned this with the success of AutumnFest. I'd like to think they would be open to suggestions and feedback. Also, the ArtLot should change and evolve. I'm sensitive to the fact that our past with the businesses has not always been good. We haven't put our money where our mouth is. I'm in favor of starting momentum and investing in the arts. Everything I've heard from businesses is that they want this. I support it in the full amount.

Commissioner Yelton: I support the agreement in the full amount. I like the idea of phased funding and treating this as a start-up and having performance milestones. I'm in favor of educating the community about the ArtLot and getting more people involved. We might need alternative ways to reach out.

Mayor Pro Tem Giager: I won't vote for the agreement as it is written. I'd like to know from the attorneys, if the \$12.5 thousand is not in the agreement does that make it illegitimate?

City Attorney Quinn: Not on concept. I would prefer to have more specific proposals about what was going to be done with the money to put in the agreement but that doesn't mean we can't enter into it. It's a contract for services and those match what the DDA's mission is – to promote the downtown of the City. We could change the amount or services but the ArtLot was the most specific thing the DDA was going to do with the money.

City Attorney Wilson: I agree. At the end of the day, there has to be accounting for that money showing that it was spent to promote the City. You would like more specifics but it's still legal.

Commissioner Beebe: I don't want to see it stopped. I'll go with the 12.5 if need be but I think we should consider cutting it to \$6 thousand.

Mayor Pro Tem Giager: There have been four meetings to discuss this but we added it last minute to two of them. That's not a lot of time. I don't think it's transparent.

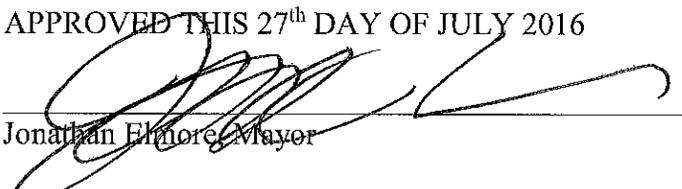
Commissioner Beebe: We're actually going through the process, just quicker than usual. We're fulfilling all the requirements.

Mayor Elmore: I'm looking at as detailed of a budget you can make on something like this. It looks like \$17 thousand is what it will take to build the structure. I'd like to make a proposal similar to Commissioner Beebe's. Let's change the initial payment to \$16 thousand with the second and third payments being \$10 thousand each. Let's make those changes and take a vote. That way we will keep the project alive and fund the DDA.

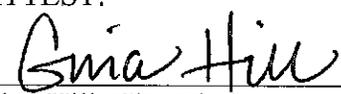
Commissioner Beebe moves to adopt agreement to provide interim funding to the DDA with the provision that the initial amount be changed to \$16 thousand instead of \$22.5 thousand. Commissioner Yelton seconds. Four ayes (Elmore, Fisher, Yelton, Beebe). One nay (Giager)

- Item No. 4 Executive Session – Litigation
- Mayor Elmore moves to enter into executive session. Commissioner Yelton seconds. All ayes.
- Item No. 5 Executive Session – Real Estate
- Item No. 6 Executive Session – Personnel
- Item No. 7 Adjournment
- Commissioner Beebe moves to exit executive session. Commissioner Yelton seconds. All ayes.
 - Commissioner Beebe moves to adjourn the meeting. Commissioner Yelton seconds. All ayes.

APPROVED THIS 27th DAY OF JULY 2016


Jonathan Elmore, Mayor

ATTEST:


Gina Hill, City Clerk