



CITY OF FLOWERY BRANCH
Council Meeting Minutes
Work Session
Thursday March 18, 2010
6:00 p.m.



CALL TO ORDER:

Mayor Hirling called the meeting to order at 6:00 p.m.

IN ATTENDANCE:

Mayor Diane Hirling and Council Members Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards. Also in attendance were City Manager Bill Andrew, City Clerk Melissa McCain, City Planner James Riker and City Attorney Ron Bennett.

Mayor Hirling announced that an invocation was going to be added to the agenda, the presentation to Officer Wicki Boyd was going to be postponed until the April 1, 2010 meeting and that the agenda was going to be rearranged to have a Voting Session first for a business license revocation hearing and then the Work Session would begin followed by the original Voting Session.

INVOCATION/PLEDGE:

George Wangemann gave the invocation and Mayor Hirling led the Pledge of Allegiance.

Mr. Wangemann reminded the Council that on April 10th The Church of Jesus Christ of Latter Day Saints was working along with Keep Hall Beautiful to organize a Spring Clean Up in Flowerly Branch.

Further, Mr. Wangemann advised that on April 24th the local Church of Jesus Christ of Latter Day Saints will be planting bushes and beautifying the seven City welcome signs.

Mr. Wangemann also advised that he has a youth group of about 200 that is looking to do a project for the City.

VOTING SESSION:

Attorney Bennett advised that this was a hearing to discuss the revocation of the business license for Terry's Towing at 5515 Atlanta Highway.

Attorney Ted Cassert was present representing Terry's Towing and approached the Council requesting this item be tabled.

Mr. Cassert stated that his client did not have a full understanding of what was being asked of them and that after further meeting on the 12th they have a better understanding and are willing to comply with all requirements the City has set forth.

Mr. Cassert stated that his client was willing to, within 30 days, produce a lease for the property at 5521 Atlanta Hwy for an overflow lot, and produce to the City a site plan prepared by a design professional. Once the plan is approved by the City his client will then be significantly in compliance within the following 30 days.

Councilman Miller advised that a letter was issued to the Terry's on October 26, 2009 with pictures and notification that the business had 30 days to comply with the demands of the letter. Council Member Miller went on to say that he felt the Terry's had ample notice, the letter was self explanatory and very clear and the Terry's chose not to move forward with compliance.

Councilmember Miller requested that the hearing continue as scheduled.

Councilman Yardley questioned the fact that there is only one license and four properties being utilized.

Attorney Bennett advised that a license is required for each property occupied but that the business has only applied for one.

Councilman Yardley further stated that he felt the business was not willing to comply until such time a hearing was called.

Attorney Cassert advised that he was unaware of why his client didn't understand the request for compliance but that they just found out about the hearing on March 12, 2010.

Councilman Yardley inquired if there was a restriction on reapplying for a business license once the license has been revoked or suspended.

Attorney Bennett advised that they could reapply once compliance was attained and there was no time limit.

Councilman Fetterman inquired if the business fell under the category of a non-conforming use.

Attorney Bennett advised that Terry's Towing was an illegal non-conforming use as that type of business was never allowed at that location under the old code.

Councilman Fetterman inquired if the business were to comply with the requests of the City would they be able to operate at that location under our code today.

Attorney Bennett advised that they could operate a towing service but not a storage yard.

Councilman Fetterman inquired on the definition "temporary".

Planner Riker advised that there is no formal definition of "temporary" in the code.

Attorney Cassert advised that the site plan the defendant is willing to produce will indicate locations of storage vehicles and how long they are stored on the property.

Attorney Bennett advised that the City would work with Terry's towing to define temporary.

Councilman Fetterman requested that a storage time limit of a maximum of 180 days be set.

Chief Lanich stated that if the vehicle was involved in a fatality or investigation it would probably be located to the City impound lot.

Councilman Miller inquired if the property at 5533 had been cleaned up and cars removed.

Planner Riker presented the Council with a picture of the property in question and vehicles had not been removed or the site cleaned up.

Councilman Lutz inquired if the business was in compliance with the Georgia Environmental Protection Division (GEPD) letter that was sent May 12, 2009 after the finding of non-compliance on April 16, 2009.

Planner Riker advised that the GEPD has indicated the business is now in compliance with all GEPD regulations.

Councilmember Richards stated that the preparation of a site plan only takes four – six hours and that if the business owners were concerned about their business being closed the Council would have a site plan in hand.

Councilmember Richards also expressed concerns with the fact that Attorney Cassert advised that once the site plan has been approved the client will be substantially compliant within 30 days. Councilmember Richards felt that the word substantial needed to be narrowed down.

Attorney Cassert stated that it was his fault a site plan was not in the hands of the Council as he stated he spoke with Mr. Riker and the time frame discussed was 90 days.

Councilman Fetterman noted that Terry's Towing did not pay for a business license for the years 2001-2003.

Planner Riker informed the Council that the plans can be reviewed and approved with red line corrections/conditions or the plans can be returned for corrections and resubmitted. Planner Riker noted this as it would affect the 30 day deadline for compliance.

There was a motion made to hold the hearing scheduled for Terry's Towing.

MOTION: Kris Yardley

SECOND: Mike Miller

AYES: Craig Lutz, Chris Fetterman, Kris Yardley and Mike Miller

NAYS: Tara Richards

Motion carried.

Attorney Cassert requested the hearing be last on the agenda so his client had the opportunity to attend the hearing.

There was a consensus to hold the hearing at the end of the Voting Session.

WORK SESSION:

Mayor Hirling opened the Work Session at 6:37 p.m.

PUBLIC COMMENTS:

Paul Coggins – 2242 Stag Run, Suwanee, Ga. 30024

Mr. Coggins approached the Council and advised that he wanted to open a restaurant and brewery at the old Flowery Branch Yacht Club building.

Mr. Coggins further advised that the City's current ordinance has a residency requirement of one year and although Mr. Coggins currently lives in Georgia and went to school at Georgia Tech his residence has not been in Georgia for a year.

Mr. Coggins requested a variance from this requirement.

Attorney Bennett reviewed Ordinance 424a which changes the residency requirement to stipulate the applicant need only be a resident with no time limit. Further the ordinance addresses brew pubs and brew pub excise taxes.

Attorney Bennett further noted that the residency requirement as changed is consistent with the surrounding jurisdictions.

Councilman Lutz inquired if the applicant was going to bottle what he brewed and what equipment was going to be used.

Mr. Coggins advised that he would be brewing one barrel at a time and would not be bottling at this time. The fermenting would be in the kegs themselves.

PRESENTATION:

Postponed till April 1, 2010

UNFINISHED:

Discussion – Three Street Lights Gift for Depot

Manager Andrew reviewed the map submitted by Flowery Branch Better Hometown Inc.

Manager Andrew advised that the cost of the lights is approximately \$9,000.00 and installation is approximately \$1,800.00. The City would be required to pay the costs upfront and Flowery Branch Better Hometown Inc. would reimburse the City for the lights.

Manager Andrew further advised that the City has not budgeted this expense but there is \$2,651 still in the depot repairs /maintenance budget. It is noted however, that the depot is in need of some ceiling repair, siding replacement and deck repairs.

Manager Andrew suggested that the light being proposed for the Knight Drive corner not be installed, as it seems out of place at this time and those funds be used towards the cost of installing the other two lights.

Councilman Lutz inquired if the City accepted the lights could the City choose the location of placement.

Manager Andrew advised that the gift is being requested with specific placement of the lights.

Councilmember Richards supported the idea of accepting two lights and having the third light costs go toward installation. Further, it was suggested to wait to accept until such time as the TE project begins so the City has a better idea of the layout of the area.

Councilman Fetterman advised he would like to accept the lights but suggested waiting till the TE project began.

Councilman Fetterman suggested postponing this item until the April 1, 2010 meeting so that the Flowery Branch Better Hometown Inc. representatives could be present to discuss location.

Discussion – Jones Road Improvements

There was a motion made to take the Jones Road Improvement discussion off the table.

MOTION: Mike Miller
SECOND: Kris Yardley
AYE: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
NAYS: None
Motion carried

Planner Riker reviewed two maps of the area and reviewed two options.

1 - Improve the entire section of Jones Road, from Mitchell Street to Gainesville Street, to a local roadway standard (Two 11'-0" wide travel lanes with appropriate storm drainage and shoulder areas). This option would also include a slight realignment of the Mitchell Street intersection and would likely include the need for additional right-of-way.

Est. Construction Cost (without right-of-way acquisition)	\$ 200,000
Est. Engineering Cost	\$ 20,000
TOTAL EST COST	\$ 220,000

Option 2: Improve a portion of Jones Road, from Mitchell Street to Lorimar Court, to a modified local roadway standard. (Two 11'-0" wide travel lanes with limited shoulder areas). Under this option, the section of Jones Road from Gainesville Street to Lorimar Court would be designated as one-way (see attached sketch).

Est. Construction Cost	\$ 28,000
Est. Engineering Cost	\$ 0
TOTAL EST COST	\$ 28,000

Councilman Lutz stated that the last time this discussion was on the table a property owner along Jones Road approached the Council and expressed concerns with the road becoming one-way as he was considering subdividing the property and would want access to Jones Road from the properties.

Councilman Lutz further suggested notifying the properties that would be affected and allow them the opportunity to discuss the options with the Council.

Councilman Fetterman expressed concerns with limiting the Tidewater Cove Subdivision to just one exit/entrance as the Army Corps of Engineers could choose to close Mitchell Street and then there would be no exit.

Planner Riker advised that it would be unlikely that Mitchell Street would be closed by the Army Corps of Engineers and further stated that the Army Corps of Engineers has approached the City and requested the City take over Mitchell Street.

Councilman Yardley suggested that the residents be notified of the one-way street option and that discussions begin to try and get the two Tidewater Property Owners (Lights Ferry Road Owner) to possibly connect the two properties allowing entrance and exiting from Tidewater Cove unto Lights Ferry Road.

Manager Andrew advised that the City could talk to the Army Corps of Engineers about taking over Mitchell Street and then it would guarantee the road would not be closed.

Councilman Miller inquired on the time to complete the one-way option.

Manager Andrew stated it would take approximately 90 days depending on the weather.

There was a consensus to notify those affected and allow discussion of options.

NEW BUSINESS:

Discussion – March 4, 2010 Meeting Minutes

There were no changes or discussions.

Discussion – Ordinance 379A – Amendment to Hotel/ Motel Tax

Attorney Bennett advised that the State has changed the definition of “permanent resident” from 10 days to 30 days of occupancy. This will allow the city to collect taxes on individuals that stay at the hotel for a period of time up to 30 days. On the 31st day of stay the individual is considered a resident and taxes are no longer allowed to be collected.

Discussion- Amendment to 8-128 Allowing the Addition of Brew Pubs & Amending the Residency Requirement

Attorney Bennett reviewed the Ordinance and advised that a resolution would also need to be composed to cover the costs of a brew pub.

Councilman Lutz expressed concerns that the ordinance didn't address alcohol content.

Attorney Bennett advised that the State heavily regulates alcohol content.

Discussion Ordinance 400 – Trash Removal

Councilman Lutz advised that he would like to see an exclusive franchise with a provider that will not only provide trash service they will also take over all the billing.

Councilman Lutz advised the City would choose the provider and the resident could choose if they want to use them or haul the trash away themselves.

Discussion – Contract Georgia Department of Public Safety

Manager Andrew advised that the City is requesting to bring into employment Jeffery Kidd for tractor trailer inspections. Officer Kidd would be an Auxiliary Officer and, by his license through the State, required to conduct at least 32 inspections a year.

Chief Lanich approached the Council and advised that Officer Kidd is an excellent asset to the City as he currently is an expert at crash scene investigations. If brought on as an auxiliary for truck enforcement he would be accompanied by another officer during the stops.

Councilman Lutz expressed concerns pertaining to the number of stops Officer Kidd would be conducting.

Chief Lanich advised it would amount to approximately 1 in 500 tractor trailers would be inspected.

DEPARTMENT REPORTS

City Manager Report

Manager Andrew reviewed the financial reports

Manager Andrew reviewed the Spring Street culvert construction and costs.

Manager Andrew informed the Council that the General Fund has paid for the Spring Street culvert and the \$104,000 may not be needed from the SPLOST V fund.

Manager Andrew reviewed a letter of support request for the CDBG joint application with Hall County and Oakwood for a new Hall County Adult Learning Center Satellite Campus in Oakwood.

There was a consensus to authorize the Mayor to sign the letter of support and forward it to the Georgia Department of Community Affairs for consideration.

Manager Andrew advised that Attorney Proctor has approached him and is interested in leasing the 5509 building from the City for his law practice. Further, the lease is the same as the prior prepared lease for Ms. Pritchett.

Rent will be \$800.00 a month with an \$800.00 deposit. The lease is good for three years with gradually increasing rent.

Manager Andrew advised that Mr. Proctor is willing to finish the flooring and wall coverings for a discount in his rent.

Councilman Lutz requested that the lease agreement include verbiage that if the tenant leaves any improvements that have been complete must stay with the property and that he suggested allowing for a \$100.00 credit toward the rent for improvements not to exceed a credit of \$3,600 over the three year lease regardless of the cost of improvements.

City Clerk Report

Clerk McCain advised the Council that the Exxon Station at 5775 Phil Niekro Blvd was sited last November by the Hall County Sheriff's Department for a sale of alcoholic beverages to a person under the age of 21. Per the Code the City may revoke or suspend the license due to this infraction.

Further Clerk McCain advised that, per Code, the license holder is suppose to notify the City immediately of any infractions that may occur, at this time they have failed to do so.

Per the Ordinance the City is required to send a letter of notification of a hearing to allow the license holder an opportunity to explain the violation.

There was a consensus to issue the letter of a hearing and to set said hearing for April 1, 2010 at 6:00 p.m.

Clerk McCain advised the Council that Jim Kenny from the Masonic Lodge has approached the City and would like to host a Spring Fun run on May 22, 2010.

There was a consensus to allow Jim Kenny and the Masonic Lodge to hold a Spring Fun Run.

Planner Report

Planner Riker informed the Council that the grant that was applied for jointly with Hall County for landscaping along Atlanta Highway was partially approved. The section of roadway around Radford Road and Atlanta Highway was approved whereas the stretch from Radford to the Wastewater Treatment Plant was denied.

Attorney Report - No report

Council Report

Councilman Miller reminded the Council and public to return the census questioner.

Further, Councilman Miller advised that there would be a benefit concert at Hebron Baptist Church to help a family from Prince of Peace Church that have excessive medical bills due to the need for a heart transplant. Please attend if available. April 24 at 6:30, 202 Hebron Church Road Dacula, GA 30019-2168

Mayor Hirling advised that the Mayor of Clermont, James Nix, has contact her about a letter of support for the Clermont Library.

Mayor Hirling asked for a consensus of the Council to send such letter.

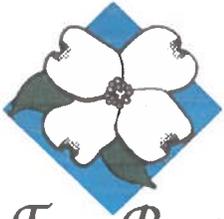
There was a consensus to send a letter of support for the Clermont library.

It was noted that Councilmember Richards abstained from the discussion.

ADJOURNMENT WORK SESSION:

Mayor Hirling adjourned the Work Session at 8:00 pm.

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Flowery Branch

CITY OF FLOWERY BRANCH
Council Meeting Minutes
Voting Session
Wednesday March 18, 2010
Immediately following Work Session



OPEN VOTING SESSION:

Mayor Hirling opened the Voting Session at 8:00 pm.

HEARING: - Terry' Towing Business License Revocation

Attorney Bennett informed the Council that there are two current violations:

- 20.61 – Multiple locations with no business licenses
- 20.68 - Land use was not consistent with license

Planner Riker advised that in 1992 there are minutes that show a business license was approved but there is no record of a business license until 1995.

From 1992 – 1995 the location of the business was 5529 Atlanta Highway
From 1995-1999 the license indicates 5521-5529 Atlanta Highway
2002 to current the license is for 5515 Atlanta Highway.

Planner Riker advised that the City had spoke to Mr. Terry and he had signed an affidavit stating that he would comply with the conditions set forth by the Planning Department, no action was taken and the City sent three letters reminding (One by officer, one by certified mail, one by e-mail) Mr. Terry of the conditions and staff has met with a representative of the business on three different occasions to discuss the conditions.

Heather Terry – 5677 Mulberry Street, Flowery Branch, Ga. 30542

Ms. Terry approached the council and advised that some of the reasons that the business has not yet complied with the requests of the City is because the EPD came out to the site on April 16, 2009 at which time there were violations found that had to be cleaned up then the City letter came out and further on October 21st Hall County came out to inspect the trucks followed by November 3, 2009 Public Safety came to the house on some compliance issues. The family has been going to court and fixing these issues as they can.

Ms. Terry continued by stating that they have already purchased some of the fence posts that will be required to install the fence around the property and she requested an extension till Monday March 22, 2010 to have the site plan to the City. Ms. Terry stated that she was in the process of getting the vehicles processed as fast as she can but to do it properly it takes time.

Further, Ms. Terry stated that her family has been in business in Flowery Branch since 1992 and that her Family has been in the business since 1976 and they would like to stay in Flowery Branch. If the license gets revoked then they would need to relocate to their Winder office which will be a detriment to the City as response times will increase and this could cause safety issues on the roadways.

Councilman Lutz inquired if the City had specific fencing regulations.

Planner Riker advised that the Terry's were told they needed to use a fence that had vinyl slats to screen the area.

Councilman Fetterman inquired if the Uncle, that was hired to install the fence, was a professional fence installer.

Ms. Terry stated that her uncle has had his own company for a long time.

Councilman Fetterman suggested requiring an annual inspection on the fence to guarantee maintenance of the fence.

Ms. Terry advised that she would agree to annual inspections.

Mayor Hirling inquired if the business was going to give up using 5529 and 5533 Atlanta Highway.

Ms. Terry advised that they would be moving off those properties as it was not feasible to screen those properties.

Councilman Yardley inquired how soon the cars could be removed from 5529 and 5533.

Ms. Terry advised that the cars that were not tied up in investigations or other issues could begin being removed immediately.

Planner Riker advised that 5229 & 5533 would not be in compliance unless the cars were removed immediately and those penalties could be charged at \$1,000 for each day for each lot that was not in compliance.

Attorney Cassert advised that the business could attempt to move all the cars to 5515 Atlanta Highway.

Councilmember Richards inquired if the cars could be relocated to the Winder business.

Ms. Terry advised they could but that it might take some time to get them all moved.

Councilman Miller stated that the business received the letter from the City in October and that it was very self explanatory and that there was plenty of time to start gaining compliance.

Attorney Cassert stated that the Ordinance allows the City Council a great deal of discretion and requested that the Council withhold the revocation until Monday March 22, 2010 at which time the site plan will be submitted. It was noted that Donald Kunup would be preparing the site plan.

Councilman Fetterman stated that he was willing to give the business one last chance to come into compliance.

Councilman Fetterman requested that the site plan be prepared by a professional and that the City Planner would review it, all the vehicles from 5529 and 5533 be removed, an annual inspection of the fence will be conducted and there must be total compliance with the October 26, 2009 letter.

Planner Riker suggested the City work with the Terry's to determine the definition of long and short term storage and verify the length with the chief for specific storage times.

Councilman Fetterman suggested 180 days unless a police excuse at which time the Chief could confirm if that was the case.

Councilman Miller suggested that by 4:00 pm Monday , a site plan must be in the office of the City, proof provided that the fencing has been purchased, all the vehicles removed from 5529 and 5533 and a copy of the lease agreement for 5521 be provided.

Attorney Cassert advised that there would not be enough time to get a lease agreement for 5521 Atlanta Highway.

Councilman Miller advised that he was firm in his request and that a lease needed to be in the City's hands by 4:00 pm on Monday.

Planner Riker summarized by stating the site plan must be completed and submitted to the City by Monday at 4:00 pm, Vehicles need to be removed from 5529 and 5533 Atlanta Highway, If a lease is not granted for 5521 Atlanta Highway by Monday then those vehicles will also need to be removed, Once site plan is approved there will be 30 days granted to come into full compliance.

Councilman Yardley advised that he did not feel that was too harsh.

There was a motion made to revoke the business license of Terry's Towing and to suspend that revocation until Monday March 22, 2010 at 4:00 pm unless the City receives a site plan for the subject property, all the vehicles are removed from 5529, 5533 Atlanta Highway, the vehicles located at 5521 Atlanta Highway will also need to be removed by Monday March 22, 2010 at 4:00 pm unless an executed lease is presented to the City by 4:00 pm. on Monday March 22, 2010. It is further motioned that once the site plan is approved the business will have 30 days to be in total compliance with the site plan and the October 26, 2009 letter of conditions. If the site plan is not approved the business will have 7 days to resubmit an acceptable plan at which time once that resubmitted plan is approved the business will have 30 days to come into total compliance with the site plan and the October 26, 2009 letter of conditions.

MOTION: Kris Yardley
SECOND: Mike Miller
AYES: Craig Lutz, Chris Fetterman, Tara Richards, Kris Yardley and Mike Miller
NAYS:
Motion carried.

CONSENT AGENDA:

- Meeting Minutes March 4, 2010

There was a motion made to approve the Consent Agenda as presented.

MOTION: Chris Fetterman
SECOND: Mike Miller
AYES: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
NAYES: None
Motion carried

UNFINISHED BUSINESS:

[1st Reading - Ordinance 379A – Hotel/ Motel Tax Amendment](#)

Attorney Bennett read Ordinance 379A.

There was a motion made to approve the first reading of Ordinance 379A.

MOTION: Mike Miller
SECOND: Tara Richards
AYES: Craig Lutz, Chris Fetterman, Tara Richards, Kris Yardley and Mike Miller
NAYES: None
ABSTAIN:
Motion carried

Approval to Acceptance Three Street Lights from Better Hometown Inc.

There was a motion made to table this item until the April 1, 2010 so members of the organization can attend and discuss the donation.

MOTION: Craig Lutz
SECOND: Chris Fetterman
AYES: Craig Lutz, Chris Fetterman, Tara Richards, Kris Yardley and Mike Miller
NAYES: None
Motion carried

Approval - Option for Jones Road

There was a consensus to send out notifications to local properties affected by the options and have a public hearing to discuss the options.

1st Reading – Ordinance 424a Amendment to the Alcoholic Beverage Ordinance Allowing the Addition of Brew Pubs

Attorney Bennett read Ordinance 424a

There was a motion made to approve Ordinance 424a as read.

MOTION: Mike Miller
SECOND: Chris Fetterman
AYES: Craig Lutz, Chris Fetterman, Tara Richards, Kris Yardley and Mike Miller
NAYES: None
Motion carried

Consider – Contract Department of Public Safety

There was a motion made to approve the contract with the department of Public Safety and authorize the Mayor to execute said document.

MOTION: Tara Richards
SECOND: Chris Fetterman
AYES: Craig Lutz, Chris Fetterman, Tara Richards, Kris Yardley and Mike Miller
NAYES: None
Motion carried

Consider – Lease Agreement 5509 Main Street – Attorney Proctor

There was a motion made to approve the lease agreement between the City of Flowery Branch and Attorney Proctor for the leasing of 5509 Main Street and to decrease the rent by \$100.00 only when improvements have been made to the location and proof of said improvements produced.

MOTION: Craig Lutz
SECOND: Chris Fetterman
AYES: Craig Lutz, Chris Fetterman, Kris Yardley and Tara Richards
NAYES: Mike Miller
Motion carried

EXECUTIVE SESSION:

There was a motion made to enter Executive session at 9:19 p.m.

MOTION: Chris Fetterman
SECOND: Kris Yardley
AYES: Craig Lutz, Chris Fetterman, Tara Richards, Kris Yardley and Mike Miller
NAYES: None
Motion carried

RECONVENE OPEN SESSION:

There was a motion made to exit Executive session at 9:42 p.m.

MOTION: Craig Lutz
SECOND: Chris Fetterman
AYES: Craig Lutz, Chris Fetterman, Tara Richards, Kris Yardley and Mike Miller
NAYES: None
Motion carried

ADJOURNMENT:

There was a motion made to adjourn the meeting at 9:43 p.m.

MOTION: Chris Fetterman
SECOND: Kris Yardley
AYES: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
NAYES: None
Meeting adjourned at 9:43 p.m.



Mayor Diane Hirling

4-1-2010

Date



City Clerk Melissa McCain

