



CITY OF FLOWERY BRANCH
Special Called Council Meeting Minutes
Work Session
Friday August 1, 2008
9:00 A.M.



OPEN WORK SESSION:

Mayor Hirling called the meeting to order at 9:02 am

IN ATTENDANCE:

Mayor Diane Hirling and Council Members Allen Bryans, Mary Jones, and Chris Fetterman. Also in attendance were City Manager Bill Andrew, City Clerk Melissa McCain, City Planner James Riker and City Attorney Ron Bennett.

ABSENT:

Councilwoman Pat Zalewski and Councilman Craig Lutz

PLEDGE OF ALLEGIANCE:

Mayor Hirling led the Pledge of Allegiance.

AGENDA UPDATE:

Mayor Hirling advised that there would be pending/potential litigation added to the Executive Session Agenda.

PUBLIC COMMENTS:

There were no public comments.

UNFINISHED BUSINESS:

There was no unfinished business

NEW BUSINESS:

Discussion – Waffle House Sewer Reservation

City Manager Andrew advised that Waffle House had begun inquiring in December of 2007 on the fees and cost to building within the City of Flowerly Branch. In April of 2008 the City changed the rate from \$10.00 a gallon to \$22.00 a gallon. Waffle House is seeking to be granted the rate initially investigated of \$10.00 as opposed to the current rate of \$22.00 per gallon.

Joe Hoffman, Director Real Estate for Waffle House, approached the Council and advised that each Waffle House stands on its own and the process for opening a Waffle House begins with meeting with the Cities and figuring the sales to capital ratio anticipated for each location. This ratio must be met prior to getting approval to conduct the due diligence which includes the soil samples, permitting, title work, and survey completion. Mr. Hoffman advised it takes approximately six months to complete this process. Waffle House began its inquiries in December of 2007.

Mr. Hoffman further advised that approval was received from their chairman in February to begin due diligence. To this point Waffle House has spent about 15,000 on due diligence spending. They are requesting, because the project began in December, that the fees discussed in December be charged in the amount of \$10.00 per gallon.

Mr. Hoffman advised that the 120% increase will put this project over budget and cause the company not to be able to use this location and it would be a loss of both time and \$15,000 in fees. Further Mr. Hoffman indicated that they are the end users so the fees could not be passed onto consumers as other developers are able to do to recoup those additional costs. Besides the loss of monies, Mr. Hoffman advised that the City will be losing an opportunity for 25 more jobs to be located in the City as well as taxes, permitting fees etc.

Councilman Fetterman inquired on why the company waited until now to secure the sewer when the company began the process in December.

Mr. Hoffman advised that the process the company follows is to first work at making sure the due diligence goes forward prior to any extra money being spent toward the close. If the Company put up 10-15 thousand dollars up front for sewer and it turned out that an issue arose that caused the company not to close then the company would have to request a refund.

Councilman Fetterman inquired from staff if a refund would have been permitted if the development did not carry through.

Manager Andrew advised that the company could have been refunded 80% of the sewer payment.

Councilman Fetterman advised that it was well advertised and Waffle House had the opportunity to come before the Council prior to the Ordinance being passed and ask to retain the \$10.00 a gallon fee.

Councilwoman Jones inquired on what would be the course of action for the next applicant if the City approved the current request.

Attorney Bennett advised that once the City has decided to establish a sewer rate system the City is obligated to follow it and cannot decided issues on a case by case basis. The City would need to change the entire rate structure.

Councilwoman Jones advised that if the City considered fees on a case by case basis the City would be opening itself up for lawsuits.

ADJOURNMENT WORK SESSION:

Mayor Hirling closed the work session at 9:15 am



CITY OF FLOWERY BRANCH
Council Meeting Minutes
Voting Session
Friday August 1, 2008
Immediately following Work Session



OPEN VOTING SESSION:

Mayor Hirling opened the Voting Session at 9:16 a.m.

UNFINISHED BUSINESS:

Waffle House Sewer Reservation

There was a consensus not to amend the current resolution setting the fee and rate structure for sewer within the City of Flowery Branch.

EXECUTIVE SESSION:

There was a motion made to exit open session and enter executive session at 9:17 a.m. for Matters relating to land acquisition and pending/potential litigation.

MOTION: Allen Bryans
SECOND: Chris Fetterman
AYES: Chris Fetterman, Allen Bryans and Mary Jones.
NAYES: None
Motion carried

RECONVENE OPEN SESSION:

There was a motion made to reconvene open session and exit the executive session at 10:19 a.m.

MOTION: Mary Jones
SECOND: Allen Bryans
AYES: Allen Bryans, Mary Jones and Chris Fetterman.
NAYES: none
Motion carried

ADJOURNMENT:

There was a motion made to adjourn the July 16, 2008 Council Meeting at 10:20 a.m.

MOTION: Mary Jones
SECOND: Allen Bryans
AYES: Chris Fetterman, Allen Bryans and Mary Jones.
NAYES: None
Meeting adjourned.