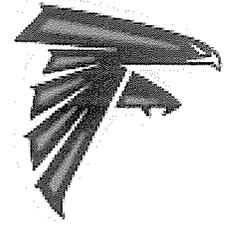




CITY OF FLOWERY BRANCH
Special Called Council Meeting Minutes
Work Session
Wednesday August 20, 2008
9:30 A.M.



OPEN WORK SESSION:

Mayor Hirling called the meeting to order at 9:32 am

IN ATTENDANCE:

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

INVOCATION / PLEDGE OF ALLEGIANCE:

Pastor Chuck Nation, First Baptist Church of Flowery Branch, gave the Invocation.

Mayor Hirling led the Pledge of Allegiance.

PUBLIC COMMENTS:

Peter Pheil – 5514 Gainesville Street, Flowery Branch, Ga. 30542 – 770-967-3944

Mr. Pheil inquired if his letter that he sent was in the minutes.

Mayor Hirling advised that all Council had received the letter and made note of his request.

Mr. Pheil advised that other homes on Gainesville Street are just as significant to the Historic District as his and that if his house was included in the Historic District and not the others on Gainesville Street he felt that it would be a violation of the 14th amendment and his right to due process.

Mr. Pheil stated that the city has to treat him the same as everyone else.

Continuing Mr. Pheil said that the nomination report from the Historic Preservation Society in and of itself is erroneous. It lists five resources one of those resources is non-contributing according to the Jaeger Company and 2 of those resources are not even in the proposed district.

Mr. Pheil made no other statements.

UNFINISHED BUSINESS:

Discussion – 2nd Reading of Ordinance 376 - Creation of Local Historic District Boundaries

Planner Riker advised that if the Ordinance was approved at the Voting Session then a letter would be sent to each of the affected properties. Said letter will contain the Historic District Boundaries as well as information pertaining to the process for obtaining a Certificate of Appropriateness and other useful information.

Councilman Lutz inquired if a permit was issued prior to the approval of the Ordinance would the issued permits be voided.

Planner Riker advised that all permits have an expiration date and if the permit holder failed to act on the permit and the permit has expired, the holder would be required to follow all regulations as approved in Historic Preservation Ordinance. If the permit holder began acting on the permit that was issued prior to the approval of the Ordinance there would be no violation.

Councilman Lutz requested that the letter be reviewed prior to issuance.

Planner Riker advised that the letter could be submitted to Council prior to the mailings, for review.

Councilman Lutz requested that the information regarding the right to appeal be included in the mailings.

Planner Riker advised that a draft would be provided prior to issuance.

There was a consensus to place the second reading of Ordinance 376 on the Voting Session Agenda for further consideration.

Discussion – 2nd Reading of Ordinance 348-8 – Text Amendment to the Zoning Ordinance

Planner Riker summarized by stating that the amendment primarily relates to modifying regulations within the CBD (Central Business District). The amendment can be summarized with the following points;

- Establish process of “redevelopment project approval”
- Change dimensional requirements (regulations) for the CBD zoning district
 - Building height remains 3 stories and 45 feet except for certain core city blocks
 - Floor-area ratios are increased from 0.85 to 1.0 and 2.0 for certain core city blocks
 - Fifteen (15%) percent of the land area must be park/ pedestrian plazas, or combination thereof; allows for location on another lot
- Minor changes to permitted uses section (*Parking structures (decks) are changed from “conditional” to “permitted” in CBD district*)

- Covers new principal buildings and structures (*Exemptions include building additions, new accessory structures, additions to accessory structures*)
- Application and public hearing requirements
- Adoption by resolution, not ordinance
- If in historic district, separate certificate of appropriateness process is still required and may occur simultaneously with redevelopment project approval

Planner Riker further advised that if the Ordinance was approved there would be a public hearing on August 28, 2008 at 6:00 pm to review the Hortman & Dobbs Development.

There was a consensus to place the second reading of Ordinance 348-8 on the Voting Session Agenda for further consideration.

NEW BUSINESS:

Discussion – July 7, 2008 Council Meeting Minutes

Clerk McCain advised there were no changes.

There was a consensus to place the July 7, 2008 Council Meeting Minutes on the Consent Agenda for further consideration.

Discussion – July 10, 2008 Public Hearing Meeting Minutes

Clerk McCain advised there were no changes.

There was a consensus to place the July 10, 2008 Public Hearing Meeting Minutes on the Consent Agenda for further consideration.

Discussion – July 16, 2008 Council Meeting Minutes

Clerk McCain advised there were no changes.

There was a consensus to place the July 16, 2008 Council Meeting Minutes on the Consent Agenda for further consideration.

Discussion – August 1, 2008 Special Called Council Meeting Minutes

Clerk McCain advised there were no changes.

There was a consensus to place the August 1, 2008 Special Called Council Meeting Minutes on the Consent Agenda for further consideration.

Discussion – Beer and Wine License Shane’s Rib Shack

Clerk McCain advised that owner Mark Carter applied for his beer and wine license June of 2008 and is anticipating opening the business sometime in the beginning of September. The building is currently under construction.

A background check has been completed on the applicant with no record being reported from the Georgia Criminal Investigation Center (GCIC) or the Flowery Branch Police Department.

The applicant has had an ad in the paper notifying of the application of the alcoholic beverage license application on July 28-31. To date the City has not received any comments regarding this application.

The lease is not included in this document but is available for review at City Hall.

There were no questions or comments regarding the application.

There was a consensus to place the beer and wine license application submitted by Mark Carter. Shane’s Rib Shack on the Consent Agenda for further consideration.

Discussion – Beer, Wine & Distilled Spirits License Lake House Bar and Grill

Clerk McCain advised that owner OK Hui Ann (Mary Jane) applied for a beer, wine and distilled spirits license on January 31, 2008. Said application was held until such time the criminal history had been completed as well as the issuance of approved plans for the location. The building is currently under construction.

A background check has been completed on the applicant with no record being reported from the Georgia Criminal Investigation Center (GCIC) or the Flowery Branch Police Department.

This applicant further has an approved license for the Package Store located on the same property. The applicant has had an ad in the paper notifying of the application of the alcoholic beverage license application on August 14-August 18. To date the City has not received any comments regarding this application.

There were no questions or comments regarding the application.

There was a consensus to place the beer, wine and distilled spirits application submitted by Ms. Ann, Lake House Bar & Grill on the Consent Agenda for further consideration.

Discussion – Reconnection Fees and Security Deposits

Clerk McCain advised that the City has always accepted personal checks for payment of service cut offs for non-payment. The City currently bills water/sewer/garbage services a month behind. When a customer is disconnected for non-payment the past month bill is due plus a current month is due and a \$20.00 reconnect fee is charged. This amount is a minimum of \$133.26.

The City has begun seeing a trend of transitional customers paying with a check to get service reconnected and then a couple weeks later the City receives notifications that the check has bounced. By the time we get this notification of the check status and attempt to collect, the bill is now owed for 3 months and a \$25.00 bank service fee is charged to the City. In this instance the City is \$234.00 behind. (3 months at a minimum bill of \$56.63, two reconnect service fees at a total of \$40.00, and a \$25 Bank Charge. Imposing a cash/MO policy the City will avoid this loss.

During the month of April the City had 3 bounced checks, in May there was 1, in June the City received 7 bad checks and July had 1. Currently four of these have not been collected on.

There was a consensus of the City Council to require all utility security deposits to be paid in cash or by money order as well as all fees associated with the reconnection of services when they have been disconnected for nonpayment.

Discussion – Uncollectable Utility Bills

Clerk McCain advised that in September of 2006 the Council authorized the City to enter into an agreement with Revenue Discovery Systems. This company has ceased collecting utility bills on behalf of municipalities. Currently GMA is in the process of reviewing RFPs' for a new vendor for these services.

September of 2007 the City wrote off an amount from the first placement with RDS that were determined to be uncollectable. That amount was \$29,225.67

Continuing, Clerk McCain requested that Council consider clearing the City books of uncollectible utility bills that are at least one year old or older. These bills have been with the collections agency since at least January of 2008.

If Council will recall the utility deposit required was increased in 2007 to cover the cost of final bills for new residents. Unfortunately the City still has many residents that paid the old rate and as they move out and since water/sewer rates have increased the final bills are not being covered by the security deposits.

The total write off amount requested is \$12,234.50

There was a consensus to place the write off of uncollectible utility bills in the amount of 12,234.50 on the Consent Agenda for further consideration.

Discussion – Resolution 08-012 – Comprehensive Plan Amendment

Planner Riker advised the Council that staff and several consultants have been working on revisions to the Comprehensive Plan to assist in facilitating redevelopment efforts within the City's historic core.

Planner Riker summarized the amendment with the following points;

- ⊙ Revisions to Historic Preservation Element
- ⊙ Revisions to Redevelopment Element
- ⊙ Revisions to the “Old Town” and “Mixed Use” Narratives
- ⊙ Updating of Character Area Map
- ⊙ Updating of Future Land Use Map

The amendment contemplates an increase in development intensity within the City's historic core. Planner Riker stated that it should be noted that a Zoning Code Amendment is being processed concurrent with this amendment and that both amendments are intended to balance redevelopment and preservation efforts within the City's historic core.

Councilman Fetterman inquired if the City would constantly update the plan as the City grows and changes.

Planner Riker advised that this document does get updated on a regular basis and that there is a budget line for such updates.

Councilman Fetterman inquired if this document binds the City regarding the zoning specified in the document.

Planner Riker advised that the plan is just a guide line and that the City is not bound to its contents but it is recommended to follow the plan as approved.

There was a consensus to place Resolution 08-012 on the Voting Session Agenda for further consideration.

Discussion – Resolution 08-013 – Fee Schedule Update

Planner Riker informed the Council that Zoning Code Amendment No. 348-8 created a redevelopment application process for certain projects within the CBD (Central Business District). Section 9.5 (g) (1) of the amendment allows the City to establish an application fee for these projects. Accordingly, staff is recommending the Council establish a fee of \$ 500.00 for such applications.

Planner Riker further advised the other changes were as follows:

Certificate of Appropriateness	From \$125.00 to \$50.00
Misc. Building Permit Review	Added \$25.00
Misc. Plan Review	Added \$25.00

Councilman Lutz inquired on what the fees, regarding the Certificate of Appropriateness, would be used for.

Planner Riker advised that the costs cover processing fees as well advertisements in the newspaper.

There was a consensus to place Resolution 08-013 on the Voting Session Agenda for further consideration.

Discussion - Ordinance 379 – Hotel/Motel Tax

City Manager Andrew advised that the Hampton Inn is under construction and once built out the occupancy rate is estimated to be 60% capacity of the 84 rooms available. The room rate will be approximately \$87.00 a day.

The City is authorized to charge up to a 5% percent tax. These funds will be distributed at the rate of 3% to the City for use by the general fund and 2% to the Lake Lanier Convention and Visitors Bureau.

Manager Andrew advised that the 3% the City receives is anticipated to first be used to improve the area around the hotel as they are the entity providing the funds although the City is not obligated to spend these funds at or near the hotel site.

Councilman Lutz advised that the Ordinance only allows for the City Clerk to conduct enforcement of this Ordinance and the administration of said Ordinance.

Attorney Bennett advised that he would include language that authorizes the City Clerk or designee to enforce or administer the Ordinance.

Attorney Bennett advised that he would make the changes and present the revised document at the Sept. 3, 2008 meeting.

There was a consensus to place the 1st reading of Ordinance 379 on the Voting Session Agenda for further consideration.

Discussion - Ordinance 380 – Municipal Court Penalties

City Manager Andrew that Chief Lanich had requested updating the City's court fees and fines as they were not consistent with other communities and our Charter limited the fine amount to \$500.00.

Attorney Bennett advised that under the Home Rule the City could change the fee/fine schedule. The proposed schedule will be a fine up to a \$1,000 and/or 6 months in prison.

There was a consensus to place the 1st reading of Ordinance 380 on the Voting Session Agenda for further consideration.

DEPARTMENT REPORTS:

Planning & Zoning

Guidelines for City Monument Sign

Planner Riker advised that staff needed direction on items that could be advertised on the City's new monument sign located at the north bound exit ramp on the Stonebridge Village corner.

There was a consensus to use the regulations presented that are similar to the City of Lilburn.

Planner Riker further advised that the sign area should be landscaped within the next 30 – 45 days.

City Manager Report

Update

Manager Andrew advised that the FB Development Authority recently had members resign and move out of the area. With these resignations there are currently three openings that need to be filled. Manager Andrew requested that the Council bring recommendations and appointments to the FB Development Authority to the next Council Meeting for consideration.

Council Report

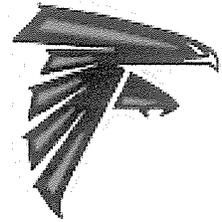
No report.

ADJOURNMENT WORK SESSION:

Mayor Hirling closed the work session at 10:38 am



CITY OF FLOWERY BRANCH
Council Meeting Minutes
Voting Session
Wednesday August 20, 2008
Immediately following Work Session



OPEN VOTING SESSION:

Mayor Hirling opened the Voting Session at 10:39 a.m.

CONSENT AGENDA:

Approval July 7, 2008 Council Meeting Minutes

Approval July 10, 2008 Public Hearing Meeting Minutes

Approval July 16, 2008 Council Meeting Minutes

Approval August 1, 2008 Special Called Council Meeting Minutes

Approval Beer and Wine License Shane's Rib Shack

Approval Beer, Wine & Distilled Spirits License Lake House Bar and Grill

Approval Uncollectable Utility Bills Write Off in the amount of \$12,234.50

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

MOTION: Mary Jones

SECOND: Allen Bryans

AYES: Pat Zalewski, Craig Lutz, Mary Jones, Chris Fetterman and Allen Bryans.

NAYES: None

Motion carried

UNFINISHED BUSINESS:

2nd Reading of Ordinance 376 - Creation of Local Historic District Boundaries

Attorney Bennett read Ordinance 376

Discussion:

Councilman Lutz made the following statement:

During my campaign for office I had the opportunity to join the other candidates and speak to the public about my philosophies and ideas. Afterwards the candidates had the opportunity to answer questions from the public. One of the questions went something like this: "if the public overwhelmingly opposes something, but you are for it, how would you vote?" I recall the general consensus from the group being something to the affect of "the people voted for me to do what is best for the city"; I specifically remember a comment about a council member's position is not about "mob rule". My answer, however, was quite a bit different from the group. I believe that I have taken a position to serve the public. I promised to take the public's input, synthesize it with the facts and that I would always explain my vote.

We have had the opportunity to hear from the public. I have listened in two formal meetings, received e-mail, post mail, and phone calls. This is one of those issues where I have heard the public overwhelmingly oppose an issue. For the most part, the people that have been for the historic district have been business owners and in the case of the business owners, most of the support has been soft and qualified.

The majority of the message that I heard from the opposition can be sorted into 3 items: What's in it for me, the government meddles, and mistrust. For the most part everyone that wanted to be left out echoed all three of these topics. I for one will say that those who oppose the historic district have a perception that I have not seen match reality. I had the opportunity to witness the work the Historical Planning Commission did on the Hortman/Dobbs project and I believe that it was a win/win for the developer as well as the city.

I also heard Tara Malone's passionate argument, and I agree that if we vote against this district, there is a good chance that the people will be back in front of us once someone tries to erect a geodesic dome house next to a historic home. However, I am still faced with the issue that perception is reality.

For me it comes down to the WIIFM argument. (What's in it for me?) What do I tell an owner who has some of his property rights diminished? They want to know "What is in it for me?" I cannot offer any compensation like tax incentives. All I can offer is a buffer in the form of a Historic Commission that will try and keep the image of the area.

Discussion con't

When faced with the overwhelming opposition and diminished property rights without just compensation, I cannot support the district as drawn. It would be my desire to shelve this plan and draw up something that could benefit the property owners, like having redevelopment tax credits within a historic district. As drawn, however, I cannot support this.

I want to say that I am personally for a historic districts I just don't believe that this historic district is drawn properly and feel it is to encompassing and includes people in it that don't want to be in it.

There was a motion made to approve the second reading of Ordinance 376 as presented.

MOTION: Pat Zalewski
SECOND: Mary Jones
AYES: Pat Zalewski, Mary Jones and Allen Bryans.
NAYES: Chris Fetterman and Craig Lutz
Motion carried

2nd Reading of Ordinance 348-8 – Text Amendment to the Zoning Ordinance

Attorney Bennett read Ordinance 348-8.

There was a motion made to approve the second reading of Ordinance 348-8 as presented.

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

Resolution 08-012 – Comprehensive Plan Amendment

Attorney Bennett read Resolution 08-012

There was a motion made to approve Resolution 08-012 as presented.

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

Resolution 08-013 – Fee Schedule Update

Attorney Bennett read Resolution 08-013

There was a motion made to approve Resolution 08-013 as presented.

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

1st Reading - Ordinance 379 – Hotel/Motel Tax

Attorney Bennett read Ordinance 379.

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

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

1st Reading - Ordinance 380 – Municipal Court Penalties

Attorney Bennett read Ordinance 380

There was a motion made to approve the first reading of Ordinance 380 as presented.

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

EXECUTIVE SESSION:

There was a motion made to exit open session and enter Executive Session at 10:52 a.m. for Matters relating to land acquisition and pending/potential litigation.

MOTION: Chris Fetterman
SECOND: Craig Lutz
AYES: Chris Fetterman, Allen Bryans, Pat Zalewski, Craig Lutz 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 11:55 a.m.

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

There was a motion made to authorize the Mayor to sign and execute the "Assignment of Contractual Obligation Pursuant to Condition of Development" to Ewell LLC contingent on the City receiving an executed "Covenant Not to Sue" documentation from Ewell LLC.

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

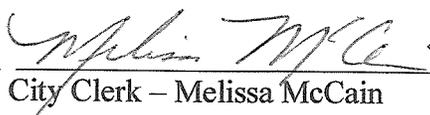
ADJOURNMENT:

There was a motion made to adjourn the July 16, 2008 Council Meeting at 11:58 a.m.

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


Mayor - Diane Hirling

9/3/08
Date


City Clerk - Melissa McCain