



CITY OF FLOWERY BRANCH
Council Meeting Minutes
WORK SESSION
Wednesday December 10, 2008
9:30 am



CALL TO ORDER:

Mayor Hirling called the meeting to order at 9:30 a.m.

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

Mayor Hirling led the pledge of allegiance.

Mayor Hirling requested that the Intergovernmental Agreement - Spout Springs Road Reclamation Area be removed from the agenda for further consideration. Mayor Hirling advised that new information has been presented regarding the agreement and that it should be discussed with the City Manager and the new information taken into consideration.

Councilwoman Mary Jones advised that she requested the issue be left on the agenda for consideration.

Councilman Bryans requested that the item be left on the agenda and discussed.

Councilman Bryans further inquired on the new information.

Mayor Hirling advised that a letter had been received from the Town of Braselton regarding the issue, and further a rate study had been obtained by Councilman Lutz and Fetterman regarding the rates Hall County maybe charging the residents of Flowerly Branch.

Continuing, Mayor Hirling stated that in light of the new information and the need to review it has been requested that this issue be removed until such review is completed.

Councilwoman Jones advised that she felt the issue could still be discussed and voted on during this meeting.

Mayor Hirling advised that there are three objections to pulling the Intergovernmental Agreement - Spout Springs Road Reclamation Area so the issue will remain on the agenda for discussion.

PUBLIC COMMENTS:

There were no public comments.

UNFINISHED BUSINESS:

There was no unfinished business.

NEW BUSINESS:

Discussion – November 19, 2008 Council Meeting Minutes

Clerk McCain advised there were no changes to the minutes as presented.

There was a consensus to place the November 19, 2008 meeting minutes on the Voting Session Consent Agenda for further consideration.

Discussion - November 25, 2008 Special Called Council Meeting Minutes

Clerk McCain advised there were no changes to the minutes as presented.

There was a consensus to place the November 25, 2008 meeting minutes on the Voting Session Consent Agenda for further consideration.

Discussion - Charter Franchise Agreement

Clerk McCain and Attorney Bennett reviewed the agreement.

There was a consensus to place the Charter Franchise Agreement on the Voting Session Consent Agenda for further consideration.

Discussion - Allied Waste Contract – increase of \$1.00 a ton.

Clerk McCain and Attorney Bennett reviewed the Allied Waste contract.

There was a consensus to place the Allied Waste Contract on the Voting Session Consent Agenda for further consideration.

Discussion - Intergovernmental Agreement – Spout Springs Water Reclamation

Mayor Hirling issued a copy of the Braselton letter to each of the Council Members for review.

Councilman Lutz made the following summarized statement;

The agreement in and of itself is a positive agreement when taken out of context of the bigger picture. The big picture however is not a good picture. Basically what the City of Flowery Branch would be doing would be resigning Sterling on the Lake to Hall County and Hall County has bought the waste treatment facility.

The County now has built up about 46 million dollars of debt against that waste treatment facility, on a subscriber base of 1500 subscribers.

Hall County has recently completed a rate study and they are proposing a rate structure that would be somewhere in the neighborhood of a \$79.00 change for 6000 gallons of sewer plus an administration fee of about \$7.00, which for the average user would double their current sewer prices and bring it to about \$85.00 a month for sewer only. That is an exorbitant amount of money and the only opportunity the City has to negotiate with Hall County is before the City signs this agreement. If the City signs this agreement, it's done, it's over and it's not the City's responsibility anymore. The City will then have taken the 800 residents at Sterling on the Lake and wiped them off the map. It is my request that this Council postpone this agreement until the City has the opportunity to sit down with the County and preferable Oakwood and Braselton and work out all the sewer issues for south Hall County.

Mayor Hirling inquired if the rate study that was done included all the proposed building and if at build out would the fees decrease.

Councilman Lutz stated in summary that it is not only Sterling on the Lake but it is also Reunion and Deaton Creek that will be paying for it and they are all being asked to pay for a lot of infrastructure build for lift stations, force mains and sewer throughout all south Hall County. The letter from Braselton indicates that they may challenge this agreement in court. Further, Councilman Lutz stated in summary that he didn't believe that FB should be an enabler for that challenge coming from Braselton. Further this is the best chance the City has to sit down with Hall County and try and hammer out what the overall plans are for that basin. Also, the fact of the matter is that Sterling on the Lake is a significant portion of our City that shouldn't be ignored and as their representatives I believe that we should have the opportunity to interface for our constituents.

Councilman Bryans advised that the City of Flowery Branch could never service Sterling on the Lake because of the 489 agreement and also that the EPD will not allow duplicate services.

Councilman Fetterman advised that currently Sterling on the Lake is in the Flowery Branch Service Area and that Hall County is in violation of the 489 agreement as it stands today. Further he agreed that right now it is OK that Hall County is servicing that area as we don't have the infrastructure to provide services in that area.

Continuing, Councilman Fetterman stated in summary that he has yet to see Hall County come before the Council and advise this Council what Hall County is going to charge the City residents for sewer. For the City to come out before the rate structure is set and say go ahead Hall County and do it the City needs to look out for the future 2000 homes.

Councilman Lutz stated that for \$85 a month per customer, the City could service that area.

Councilman Bryans advised that EPD will not allow duplicate services.

Councilman Lutz advised that Hall County is out of line and is not in compliance with the 489 agreement and by signing this agreement they are trying to right a wrong.

Mayor Hirling advised that this agreement will be giving Hall County the authority to service that area and the City will lose all rights to that area.

Councilman Bryans advised that there was no way we could service that area.

Councilman Fetterman stated in summary that the changing of the service districts should happen but that the City does not need to do it right now without Hall County standing before the Council and letting our citizens know what the new sewer rates are going to be. If we sign off on this now we are saying to the citizens, you're not important and we are not going to worry about your sewer rates. The next 1500 homes that are going to be built out there will be paying the bill. Currently there is a 46 million dollar debt for 1500 residents working out to approximately \$30,000 dollars debt per person if this service agreement goes through.

Councilman Bryans stated that he didn't see the Hall County charging the residents the 46 million dollars that they are indebted as it does not include the sewer plant. The sewer plant was only 13 million dollars. The other costs are in the sewer line going to Gainesville. Further Reunion is going to go to Gainesville also.

Councilman Lutz stated that if what is said is true the debt will then be figured on only 800 homes on a 13 million dollar plant.

Councilman Bryans added that the schools will also be going to that plant.

Councilman Lutz made the following summary statement:

I think there are enough questions from this council as to what the future is for a significant portion of our population that the City ought to take a time out and set this aside so the City can get some more answers.

Councilman Fetterman stated that he would like to have Mr. Andrew here to answer some questions prior to voting.

Councilwoman Jones stated that she didn't believe Mr. Andrew and Mr. Bennett would have signed off on this if there was an issue.

Councilman Fetterman advised that Mr. Andrew and Mr. Bennett may not have known about the rate study and the letter from Braselton as it came in after the agenda was published.

Councilwoman Jones advised that the rate study was just a rate study and that Hall County may not have the rates set yet.

Councilman Fetterman then asked why the City would sign the IGA without the rates.

Councilwoman Jones advised that the City can't control the rates of Hall County.

Councilman Fetterman stated that that was exactly his point and that the IGA should not be signed without a sewer rate.

Councilman Lutz advised that Hall County has other business to take care of and this agreement can wait.

Further, Councilman Lutz advised that Hall County has not yet signed off on the IGA and suggested that the City wait until Hall County signs off on the agreement to sign. This will give the City time to review.

Mayor Hirling advised that Manager Andrew spoke to Ken Rearden and that Mr. Rearden advised this item was not urgent and could be postponed.

Councilman Fetterman advised that it was not a pressing issue and asked the Council to reconsider voting on this issue today and postpone for further investigation.

Councilwoman Jones advised that she was not going to vote to push it back and that she was going to vote to push it forward.

Councilman Fetterman inquired if the Council was going to push this agreement through and seal the fate of all the Hall County Sewer District residents in Flowery Branch.

Councilman Bryans advised that the rate Hall County sets is uncontrolled by the City.

Councilman Fetterman advised that in Flowery Branch the fee for 6000 gallons of sewer treatment is \$39.36 plus a service fee and as pointed out in the rate study the Hall County Service District fee will be \$79.00 plus a \$7.00 service fee.

Councilwoman Zalewski advised that the study is just a study and not necessarily what the rate is going to be.

Councilman Fetterman advised that that was his point and the City should not be voting on an agreement until such time the rates are established.

Councilman Lutz requested that the Intergovernmental Agreement be removed from the Voting Session Consent Agenda for a separate vote.

Discussion - Support Letter for GHMPO

Planner Riker reviewed the request for support letter to investigate a possible TSPLOST.

Councilman Bryans suggested that the letter reflect support for a one cent tax on gas so that all road users are contributing to road maintenance and construction as opposed to a special local option sales tax.

Councilman Lutz advised that he felt there was not enough information at this point to support the City engaging in this type of support.

Councilman Lutz further requested that the support letter be removed from the Voting Session Consent Agenda for a separate vote.

Discussion – Traffic Light Phil Neikro & Thurmon Tanner Road

Planner Riker reviewed the contracts for a signal warrant analysis and the process for signaling the intersection.

Mayor Hirling inquired if Hall County was going to take the project over once the study was completed.

Planner Riker advised that there is nothing in writing and there has just been discussion regarding Hall County assisting in the cost to install signals if warranted.

Attorney Bennett reviewed suggested changes to the Kimley-Horn and Associates Contract. Attorney Bennett advised that page 2 under standard conditions limits and caps their liability to \$50,000. Also it is recommended to strike this provision and include reasonable indemnity provision.

Planner Riker suggested that Council include in the motion that it is subject to approval by the attorney and if not approved to authorize the Mayor to execute the agreement with Street Smarts.

Attorney Bennett further directed Council to section 12 of the Kimley-Horn Agreement and stated that it has a dispute resolution and that it would require the City to take action quicker than the statute of limitations. Attorney Bennett suggested that the last sentence requiring action within one year be struck.

Councilman Bryans requested this item be removed from the Consent Agenda and placed on the Voting Session Agenda for further consideration.

DEPARTMENT REPORTS:

Planning Department

Planner Riker advised that he has been in discussions regarding the current Intergovernmental Agreement with Hall County Fire Services and advised that the current agreement may be outdated. The fire department has requested a letter from the City to support moving forward with the fire department composing an updated Intergovernmental Agreement.

There was a consensus to place this item under the Voting Session Consent Agenda for further consideration.

Planner Riker further informed the Council that the City has a meeting at 3:15 pm with the local Legislator's session. The City is planning to mention the downtown redevelopment project and express the importance of implementing the Tax Allocation Districts. The meeting should last 20-30 minutes – Council is invited to attend.

Planner Riker further reviewed and gave a Jones Road survey update.

City Manager Report

Assistant City Clerk Camiscioni reviewed a request to transfer of funds from the Water/Sewer Capital Account to the Grant fund.

Further, Asst. Clerk Camiscioni advised that the auditors advised that this would be a finding and the City would not be in compliance if this budget was not balanced. The amount to transfer is \$166,333.00.

This transfer would cover the unexpected expenses that were not budgeted at the time the grant was awarded. Since the grant was awarded a couple years prior, the cost of materials has increased causing the grant budget to be out of balance.

There was a consensus to remove this item from the Voting Session Consent Agenda and place this on the Voting Session Agenda for further consideration.

Council Report

Councilman Lutz reminded the group that the Flowery Branch Falcons are participating in a State Championship game and they are asking supporters to line Hog Mountain Road to wish them luck at 12:30 on Saturday.

Councilman Lutz would like staff to compose a letter to Congressman Nathan Deal with copies to the Governor and anyone else to urge them to consider Flowery Branch for funding from the infrastructure bill and funding that is being brought forward.

Councilwoman Zalewski congratulated Councilwoman Mary Jones and Janice Bryans for putting on a great tree lighting and fantastic Christmas Parade.

Mayor Hirling reiterated the support needed for the Flowery Branch Football Team.

ADJOURNMENT:

Mayor Hirling closed the work session at 10:33 a.m.

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CITY OF FLOWERY BRANCH
Council Meeting Minutes
VOTING SESSION
Wednesday December 10, 2008
9:30 am



CALL TO ORDER:

Mayor Hirling called the Voting Session to order at 10:33 a.m.

CONSENT AGENDA:

[November 19, 2008 Council Meeting Minutes](#)

[November 25, 2008 Special Called Council Meeting Minutes](#)

[Charter Franchise Agreement](#)

[Allied Waste Contract](#)

[Fire Department Letter supporting updated Intergovernmental Agreement composition](#)

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

MOTION: Mary Jones

SECOND: Chris Fetterman

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

NAYES: None

Motion carried

UNFINISHED BUSINESS:

[Intergovernmental Agreement – Spout Springs Water Reclamation](#)

There was a motion made to table this item until after the SPLOST vote in March.

MOTION: Craig Lutz

SECOND: Chris Fetterman

Discussion:

Councilwoman Jones advised this issue needed to be considered on this date.

Councilman Lutz made the following summary statement:

Hall County is currently writing a check with insufficient funds in their bank account. We should let the voters decide; through their SPLOST effort which is a significant portion of whether or not they want a lot of this work done that Hall County is already doing. If we move forward without the voters having the chance to vote on this I think we are doing the voters a great disservice, not to mention the fact that Hall County is holding a 46 million dollar gun to the heads of 1500 voters saying if they don't vote for the SPLOST then they are in big big trouble.

Councilman Fetterman stated in summary that:

A third of the 1500 customers that are going to foot this 46 million dollar bill live in the City of Flowery Branch specifically Sterling on the Lake. Each will have a 30,000 dollar debt put on them by Hall County, so if the SPLOST doesn't pass and we sign this over then we have sign sealed and delivered the fate of all the residents of Flowery Branch that live in Sterling on the Lake. We need to postpone this at least till the SPLOST vote in March.

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

There was a motion made to table this vote until after Hall County has reviewed and executed the Intergovernmental Agreement.

MOTION: Craig Lutz
SECOND: Chris Fetterman

Discussion:

Councilman Lutz made the following summary statement:

We are basically moving forward here without Hall County having the opportunity to hear discussion from the public as to whether or not this is a good idea or not and I think we are out of order by signing this agreement first without first allowing the south Hall County citizens the opportunity to voice their opinion.

AYES: Craig Lutz and Chris Fetterman
NAYES: Mary Jones, Allen Bryans and Pat Zalewski
Motion denied

There was a motion made to approve the Intergovernmental Agreement between the City of Flowery Branch and Hall County concerning the South Hall Sewer Service Delivery Area.

MOTION: Mary Jones
SECOND: Pat Zalewski

Discussion:

Councilman Lutz made the following summary statement:

First point is that Sterling on the Lake is in the Flowery Branch Sewer District, currently Hall County is in violation of House Bill 489, we know this and we have a letter from Braselton that also reiterates this point. The second point is this is not a pressing issue and does not have to be signed today or anytime in the near future. If we sign this we are losing all leverage to get all the parties together to hammer out a sensible agreement and we shouldn't abandon a large portion of constituents that we have all been elected to represent.

By signing this agreement we are signing away any rights by the City to have any discussion on behalf of a very larger group of our residents.

Councilman Fetterman made the following summary statement:

To the average citizen that hopes their local elected official are looking out for their best interest this Intergovernmental Agreement does just the opposite. On the surface it appears from a geographical perspective that this is a win win agreement for Flowery Branch and Hall County but actually Flowery Branch citizens will lose a lot financially. First this IGA is being proposed prior to Hall County's signature, which is on the agenda for Hall County to discuss tomorrow. Second this IGA is prior to the release of any sewer rates which will be in the area of \$79 dollars for 6000 gallons of sewer compared to \$42.00 currently. Flowery Branch sewer rates are only at \$39.36 for 6000 gallons of sewer. The third point is that Hall County spent in upwards of 46 million dollars on the purchase of the Wieland Plant, and for putting in the ground infrastructure for approximately 1500 customers which about a third live in the City of Flowery Branch. This works out to approximately \$30,000 of Hall County debt per person. Lastly, the SPLOST vote is not until next year and why should we agree to this IGA till we see if the citizens of Hall County even want the SPLOST. We, as a Council, are charged with protecting our citizens and if we sign this agreement without the official rates from Hall County we lose our ability to protect our citizens. My question is, is this new rate going to be reasonably related to the service delivery to the customer? We, as a Council, need not sign this IGA until we can ensure the IGA is in the best interest of the citizens of Flowery Branch and if this Council votes to sign this today there is no way to reverse it and I am certain that this will hurt the City of Flowery Branch.

AYES: Mary Jones, Allen Bryans and at Zalewski.

NAYES: Craig Lutz and Chris Fetterman

Motion carried

[Consider - Support Letter for GHMPO](#)

There was a motion made to authorize the composition of a support letter and issue a support letter for exploration of the TSPLOST program.

MOTION: Mary Jones

SECOND: Pat Zalewski

Discussion:

Councilman Lutz – advised that there is not a law yet and there is a good chance it won't pass the legislature and I don't understand why we are wasting staff resources and time researching this and putting time into this until we have a law we can research and look at. Certainly I don't want to be in the situation where we are lobbying for it because we don't know if this is something the voters would support.

Councilman Fetterman advised that this went through the state legislator last year and it failed and I believe our representative voted against it last year and GDOT currently has a 456 million dollar debt.

AYES: Mary Jones, Allen Bryans and Pat Zalewski

NAYES: Craig Lutz and Chris Fetterman

Motion carried.

[Contract with Kimley-Horn and Associates for the a traffic light Phil Neikro & Thurmon Tanner Blvd.](#)

There was a motion made to approve the contract with Kimley Horn with the changes as to the liability section and striking the section in the disputed resolution section suggested by the attorney and to further authorize the Mayor to execute the contract with Street Smarts if Kimley Horn does not accept the changes as proposed.

MOTION: Allen Bryans

SECOND: Craig Lutz

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

NAYES: None

Motion carried.

[Consider TE Grant Reconciliation](#)

There was a motion made to authorize the City Manager to transfer \$166,333.00 from the Water/Sewer Capitol Fund into the Grant Fund.

MOTION: Craig Lutz

SECOND: Chris Fetterman

Councilman Bryans advised that he felt the Water and Sewer Fund had been supporting the General fund and these funds should not be taken from the Water and Sewer Enterprise Fund.

Councilman Fetterman inquired if the City was required to transfer these funds.

Assistant City Clerk Camiscioni advised that the Grant Fund had to be balanced or the City would be in violation.

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

NAYES: Allen Bryans

Motion carried.

EXECUTIVE SESSION:

There was a motion made to go into Executive Session at 10:47 am.

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

RECONVENE OPEN SESSION:

There was a motion made to reconvene open session at 11:06 am.

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

ADJOURNMENT:

There was a motion made to adjourn the meeting at 11:07 a.m.

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