



CITY OF FLOWERY BRANCH
Council Meeting
Work Session Minutes
Thursday March 3rd, 2011



CALL TO ORDER:

Mayor Miller called the meeting to order at 6:08 pm.

PLEDGE OF ALLEGIANCE:

PUBLIC COMMENTS:

Mayor Miller noted that the only public comments listed were with regards to the rental agreement which is under New Business. The public comments will be heard at that time.

UNFINISHED BUSINESS:

Discussion – City Council Appointments

City Manager Andrew relayed to Council that the only pressing appointments that need to be addressed right now is the Tad Committee. The Tad Committee consists of three Council Members that need to be filled; the City Manager and City Planner sit on that committee at the will of the Council based on some policies that have been adopted. If the desire of the Council is to keep the City Manager and City Planner on that committee that would be ok, if not then those policies can be amended by the Council with only the three Council Members sitting on the committee.

Further, this committee is also comprised of the Hall County Chairman and Hall County Administrator by an intergovernmental agreement and their existence is not controlled by Council.

Consensus of the Council moved to have Council Members Swafford, Yardley and Anglin be appointed to the Tad Committee replacing the three members from the previous council.

NEW BUSINESS:

Discussion – February 17, 2011 meeting minutes
Interim City Clerk Lou Camiscioni – Tab 1

All edits are reflected in the minutes. Also, from now on when a vote of the Council is taken, if the outcome is a unanimous decision, only the Council Member who made the motion as well as the Council Member who seconded the motion will have their names in the minutes. With all other votes where the decision is not unanimous (in favor, oppose and abstain), the names of the Council Members along with their vote will appear in the minutes.

**Discussion – 5509 Main Street Rental Agreement
City Manager Bill Andrew – Tab 2**

City Manager Bill Andrew gave an overview of the Rental Agreement to Council. A request from 5th Row Center asking the Council to extend their current \$1 per month lease for the next six months in their lease agreement. The current contract is in its seventh month. 5th Row Center had gone six months at \$1 and one month at the \$250 rate which would continue on for another five months in the current contract. The request is for the \$250 rate to go back to being \$1 for the remaining months in this current contract.

If this change should take place, the City would have a loss of \$1,494 dollars. This revenue was not a factor in this years budget because the City did not know it would have a tenant and certainly not under any particular lease arrangement. The City currently covers the cost of Water and Sewer for the property.

Some discussion from 5th Row Center in the paper indicated that they had quite a bit of expenditures to bring the building up to code, however, it was the understanding of the City that all that was requested was grab bars in the rest rooms and exit signs per the fire departments request. These were the only changes necessary needed to be consistent with the code for occupation. In addition, after purchasing the building, the City invested \$15, 971 just in rehabbing it for it to be open to leasing.

Public Comments

Donna Chalmers, 770 965-0564, 5th Row Center and Dan Kniffen (no number or address).

The delay is being asked because even though in the official sense of bringing the building up to code, there were only a few items in order to get those items taken care of and get some other absolute necessity taken care of for the building before we could use it in any way shape or form. For example all we had was a sub floor; we had to have a floor because of the nature of what we do. In other words it just took a lot more time, money and effort than we had counted on. It really took us about three months to get it to where we could use the building. Then we had the holidays and just now, we are on that verge of being able to really generate some income. We are starting a new children's theater, Blossom Creek Young Adults Studio, because we've had so much interest from families to plug their children into the performing arts. That will start March 12th.

Then we have Charlotte's Web coming up in which we are going to use the Depot for performance space and we are very excited about having people come into the Depot for 7 performances; and we are paying for that. Then another thing that really hinders us being able to do business is that we do not have internet access. We do not have signs yet either because we do not have the money for signs.

I guess I'm just asking if there is anyway we could have a little bit more time, and I understand that you guys have already done so much for us and believe me, we are so grateful and we really see growth just now beginning to happen. So I guess that's basically where I stand and I hope that you all have seen where we have been good neighbors, worked very very hard with the Christmas festival; spent a lot of time, many hours on that project and intend to keep that up for future City projects. It's my dream along with your dream to see a lot of people coming down here for activities and events and restaurants and all the rest.

Dan Kniffen then spoke to the Council. I am an attorney but I'm here as a board member for 5th Row Center and somebody who has been part of the theater for sometime now. As Donna said there were a lot of expenses, effort and time really that none of us really expected. It's not a stretch to say that a lot of us dug into our own pockets and begged, borrowed but didn't steal. If any of you were here an hour or so ago when I arrived I couldn't find a parking space on Main Street because the kids theater was going on and there was a whole bunch of very energetic young actors, they were having a great time.

I would simply remind you that the vision the theater has I think is identical for the vision you all have for the downtown. They want to be here, we want to participate in the growth of downtown, we want to partner with the businesses downtown with the City with regard to festivals, events of any kind that will bring business and revenue to downtown. As Donna said we are just getting our feet on the ground right now and to generate a monthly payment of any kind is a challenge so the extension would be a great benefit to us and that is why we wanted to come and speak for it tonight.

Council Member Yardley asked what the default rate was. City Attorney Bennett answered \$250.

City Manager Andrew then remarked that the City had been paying, when the City rented the building, around \$900 a month.

Council Member Yardley remarked that there are no expenses to the taxpayers currently other than they are not bringing in revenue.

City Manager Andrew stated that is correct. We also have had approximately 3 people ask about renting the facility since 5th Row Center has been there but we have not pursued that; there has been some interest in the building.

Mayor Miller asked the City Manager if the City was paying the Water and Sewer expenses on the building. City Manager Andrew replied that currently the City is losing money on the arrangement every month. The \$57.46 is the minimum based on 4,500 gallons. So the City is losing around \$50 a month on Water and Sewer.

Council Member Yardley then asked if it would be agreeable to make that revenue neutral to make it \$50 dollars a month. That was agreed to by Donna Chalmers. Dan Kniffen then interjected that obviously they would still like to keep it at \$1 if all possible. We do feel like we have and will continue to bring revenue into downtown which I assume shows up somewhere in the City budget.

Donna Chalmers then reminded the Council that there is a clause in the lease saying that if the City should get an offer for the market value for that building, 5th Row Center would have 30 days to match or move.

Dan Kniffen asked the City Manager at this time wasn't there a clause also that was going to apply to the improvements that were made to the building.

City Attorney Bennett then stated that the City agreed to consider the tenants request for a rent set-off for actual reasonable expenses because at the time it was unknown how much the improvements may be.

Dan Kniffen replied to the City Attorney he thought that those expenses amounted to about \$2,400.

Council Member Fetterman asked Mr. Kniffen what those expenses entailed. Dan Kniffen replied flooring, lighting, top of the line laminate flooring that they installed; 7 ceiling fans with light fixtures, wiring and fixtures themselves were quite a bit; the walls that were erected to form an office and lobby. We have tile in the bathroom now where there was none of course, which the City had an employee install.

Council Member Yardley remarked he loves the theater being here; he has seen the actions in the downtown improving, especially the night traffic and would like to continue seeing the theater here.

City Manager Andrew then addressed the Council asking if he could refine the motion slightly instead of naming a number for what the rent should be, we could say which is the lower amount.

City Attorney Bennett addressed the Mayor at this time. We are going to have to vote on a contract modification anyway so it's not really a motion as much as it is a direction. If you want to modify the contract, I'll need to prepare a brief writing anyway, we need to sign off on it, so we can research into what that amount is, you don't have to know it tonight I guess to make the motion is what I'm trying to say. Motion would be directing staff to amend the contract to do this and then we'll come back at a later meeting with a document for the Council to authorize the Mayor to sign if that is the wish of the Council.

Council Member Yardley asked if the motion to amend contract would be address specific or the actual name?

City Attorney replied either one, at this point it is just direction, and if you didn't want to make a motion it would not be a problem. The key vote is when I bring you back a contract modification and you officially say I want the City to enter into the contract. However you choose to do it will be perfectly alright.

Council Member Richards asked if the City would still have to do a contract modification if we just extend it as it for 6 months.

City Attorney Bennett stated you could show grace to their request and just collect a dollar for the next few months even though it says \$250 in there, there is a provision in the contract that says that there is no waiver if the City decides to show grace from time to time. If you choose to show grace and directed Mr. Andrew to show grace and continue to collect the dollar or \$50, it's not a waiver of insisting on the \$250 so it's not the security that perhaps the tenant might like, but it is certainly within the realm of legal possibility. You then don't have to sign anything; you just extend grace for a few more months.

**Discussion 1st reading Ordinance No. 446; an amendment to the alcohol beverage ordinance regulating off premises sales
City Attorney Ron Bennett – Tab 3**

This ordinance was prompted by a request to have an event at the library where alcohol would be part of the catering service. Overview is that it requests an alcoholic beverage caterer who wants to sell beer, wine or distilled spirits as part of their catering services within the City, to obtain an annual license.

In addition to an annual license they would also have to obtain an event permit for each event they would do throughout this year. It also provides for excise tax on alcohol that is brought into the jurisdiction. There would be no excise tax on alcohol that was purchased in, originated in Flowery Branch, but if somebody brought some from outside the jurisdiction there is an excise tax levied on it.

Section 8-130 is for malt, beverage and wine tastings. This section makes sure that the City is not requiring somebody that may want to have a wine tasting in the home or a subdivision or may want a wine tasting in the club house, that is not necessarily covered by this section so a definition was added to say what the Council intends to regulate is a tasting where someone is offering a sample beer or wine for the purpose of promoting beer or wine for sale. A resolution is also included which would set the fees.

Council Member Yardley asked if a bona fide non-profit charitable or civic organization could make a permit application.

City Attorney answered yes, as stated the City Manager may waive a portion of such waiting period upon good cause being show.

Council Member Yardley then replied that the ordinance mentions waiting period, what about the fee?

City Attorney again answered that can certainly be put in the ordinance as well.

Council Member Fetterman asked if this was only for public places, not private.

City Attorney Bennett responded it is only for commercial endeavors.

Council Fetterman gave the scenario that if someone was having a wedding reception and they are bringing in a caterer they are not going to be found to have to have a permit?

City Attorney Bennett replied if that caterer is having a cash bar where they are selling glasses of beer, wine or distilled mixed drinks then they would need a permit. If someone wants to have a wedding and provides the alcohol and gives it to folks they will not have to meet any of these criteria. It is only if you are selling it, in public places or private.

Council Member Richards asked about Sec. 8-130 subsection 2.

City Attorney Bennett responded with that is no beer or wine tasting at liquor stores.

Council Member Richards then went on further and asked about Toasted and Tapped. If they bottled their beer and want to sell it, then they couldn't taste it?

City Attorney Bennett replied they would be impacted more by subsection 3. That is the no beer and wine tasting at grocery stores and the CITGO. If they do not have enough space dedicated to retail sale of bottled beer they could be affected. The Council could also consider that once Toasted and Tapped is to the point that they have an idea of how they want to launch this part of their business the City could also revisit it and tweak the ordinance then.

Council Member Fetterman remarked that under Section 8-130, sections 2 and 3 would be removed when it comes time to read the ordinance.

City Attorney Bennett replied that it is actually B2 and B3 now. The only other change noted is what Council Member Yardley requested, that is to give the City Manager discretion to waive the fee and time required for a nonprofit and/or charitable organization should one apply.

Discussion – Consideration for changes to the contract for services with Red Oak Sanitation City Manager Bill Andrew – Tab 4

City Manager addressed the Council on 3 issues; (1) Changes to the recycling; (2) send out more information to the public regarding the \$50 fee for the use of convenience centers; (3) establishing a fee for the City's chipper.

The City was approached by Red Oak asking to change the contract to allow Red Oak to go to a 95 gallon recycling container that would be collected every two weeks rather than every week. The contract now allows for citizens to choose between a 65 and 95 gallon container for weekly pickup.

Red Oak has specifically asked if they could go strictly to a 95 gallon container (which they have the ability to do now under the contract) but then also go to collecting that every two weeks. That large of a container has been successful in their other areas and it also cuts the recycling truck traffic to half.

On September 24, 2010 the City sent out a letter announcing that Red Oak was going to be taking over the system on November 1st and explaining the changes to sanitation services. The letter clearly stated that if residents did not choose Red Oak, they would be charged a \$50 fee from the County.

The County has said that they would need a list from the City by the end of this month in order to properly assess the tax. That tax bill would go out around August 1st of this year then of course be due back to the County around December 1st of this year. To do this we have 1,900 households, just doing the math on \$0.44 that's \$836 then you add copying, paper, envelopes all those kinds of things, you certainly exceeding \$1,000 for that cost which the City has already paid for once back in September.

Red Oak has indicated that of the 1,900 households, approximately 300 to 400 have not signed up for service and have offered to cover half the cost of those individuals; the City would cover the rest. The overall cost perhaps \$1,200 but then it would be somewhat less than that because of Red Oak covering the cost for the folks who haven't signed up.

Council Member Richards asked City Manager Andrew isn't this a County problem?

City Manager Andrew said he wouldn't consider it a County problem. It may become a City problem in the sense that we are going to have quite a few people asking why there is a \$50 charge on their tax bill. As it stands now Red Oak can supply us a list of the people who have not signed up for service and we simply send that list to the County tomorrow afternoon and those will be the people receiving the \$50 charge.

Council Member Yardley asked why we are sending another letter to the 1,900 people when only 300 to 400 people do not have the service. Why not send the letter to only the ones that do not have the service? That will put the cost down to \$80.00.

Council Member Yardley further inquired about section 1 for the contract amendment. He asked if this related to the rising cost of gasoline, that we do not want to pass onto the consumers.

The representative from Red Oak Sanitation, Stub Luce, then addressed the council. He stated that the changes being requested are not just because of the cost of gasoline, it is part of the complete picture. To make this work they have donated 100% of the recycling proceeds to the American Cancer Society. Positions at the hospital in Hall County are actually filled by the American Cancer Society. The hospital pays half of their salary and American Cancer pays the other half and all the money that Red Oak donates actually goes to this salary position.

The entire program as a whole is putting all these big carts out there and by using the truck cart; half as many trucks and half as much fuel is used and that is how we cover our part because we donate the proceeds to the American Cancer Society. The containers with the pink lids are the ones promoting this endeavor.

Council Member Fetterman then remarked that he is not a fan of bi-monthly service, it can get confusing sometimes and unfortunately I couldn't vote on the bids when they came out, I read into the contract that everyone was going to receive a 65 gallon cart. 65 gallon carts will require recycling more compared to the 18 gallon container. I also did not know that everyone had to call and request the cart.

City Manager Andrew then said what he understands that in the contract, the equipment only shows there being a 95 gallon beverage container but then the description in Section 3 indicates that the citizens will be provided with one 95 or 65 gallon recycling container. Staff can change that to say 95 then we would also need to change it from once a week to every other week or what Council would require.

The Red Oak Sanitation representative also relayed to the Council that current city participation in the recycling program is probably less than 10% of the households who have signed up for service with them.

After much discussion by all, the Council thought it was best to leave the contract as is.

**Discussion – Contract with Pall Corporation for service on the City's Pall Filtration System
City Manager Bill Andrew – Tab 5**

City Manager Bill Andrew explained to Council the reason for this contract request. The filters being used in the filtration system are in need of improving their efficiency. Pall Corp., will be working with our system and personnel to gain an understanding as to how we may use a different cleaning regimen to prolong the life and increase the efficiency of the filters for the waste water treatment plant. It was also pointed out by City Manager Andrew that the hours to be spent on the job by Pall Corporation will be 10 hours per day, not 8 as shown on the quotation, bottom of page 1.

**Discussion – Utility relocated along Railroad Avenue to facilitate upcoming TE Grant project
City Planner James Riker – Tab 6**

City Planner James Riker presented to the Council three invoices totaling \$20,542.25 which will cover the expense of relocating the overhead utilities on Railroad Avenue before starting the TE program. The cost breakdown is Georgia Power \$17,748.50, AT&T \$1,426.21 and Charter Communications \$1,367.54.

DEPARTMENT REPORTS:

City Manager Report

The City Manager reviewed with Council the new costs associated which Blue Cross / Blue Shield of Georgia will be passing onto the City effective 4/1/2011. The City Manager went further on to inform Council that the City would see a 25% increase on the medical portion of the coverage due to BC/BS of GA having to pay out more for employee claims, than what they received payment for during the period 4/1/10 thru 3/31/11.

There are two options for this year as well City Manager Andrew stated. One is to offer the employees with a HMO plan by BC/BS of GA with a total cost of \$470.04 (medical, dental and life) fully funded by the City. If Council agrees, this would be the plan that the City would offer to the employees as being 100% paid for by the City. Option 2 would allow the employee to 'buy' into the higher priced plan, which is the same plan they have now. The cost for this plan (medical, dental and life) is \$536.12. If this plan was selected by the employee, they would have to buy in at the difference between these 2 plans; \$66.08 per month; \$30.50 for each payroll (26).

After a discussion by Council, it was decided that they would present the City Manager with what direction they would like to see the City go forward with by Monday, 3/7/2011. The City Manager would then present it to the employees.

Interim City Clerk Report

Reminded Council about the Convention Registration on Tuesday, 3/8/11 at 9 am. If anyone else wanted to turn in their form they needed to do so.

City Planner Report

City Planner Riker informed the Council that in 2 weeks there will be 2 Public Hearings starting at 6 pm on 3/17/2011. One will be on our Comprehensive Plan and the other will be on a Rezoning Amendment for Sterling on the Lake. Notices have been sent out; Patrick Clark of Newland Communities would like to chat with each Council Member. Staff Reports should be out next Friday.

City Attorney Report

No report

Council Report

Council Member Yardley informed Council that there is a Blood Drive on by the American Red Cross.

Mayor

Retreat issues that are on your list, if you have any changes please get them to the City Manager by Monday 3/7/11 so he can prepare Staff reports.

The City Clerk posting will be advertised for 30 days beginning Monday, 3/7/11. A few resumes have been received.

The Mayor also mentioned the following meetings are coming up:

Gainesville Hall MPO Planning Session at the Mountain Center, 5:30 pm on 3/8/11

Developer Meeting for Sterling on the Lake annexation is at Prince of Peach Church at 6:30 pm on 3/10/11. Newland Communities and Stone Quest Builders will be there to answer any questions.

EDC will be at Spouts Springs Library at 7:30 am on 3/11/11. This meeting will be featuring Flowery Branch. Mayor Miller will be making a presentation there.

Friends of Hall Library at 6 pm on 4/15/11. A murder mystery dinner theater at the Spout Springs Library. Some community people will play some suspects, Phil Niekro will be part of it, and so will the Mayor. No lines involved.

ADJOURNMENT WORK SESSION: The work session ended at 8:19 pm



CITY OF FLOWERY BRANCH
Council Meeting Agenda
Voting Session Minutes
Thursday March 3rd, 2011



OPEN VOTING SESSION:

Mayor Miller opened the Voting Session at 8:19 pm.

CONSENT AGENDA:

February 17, 2011 Meeting Minutes

Contract with Pall Corporation for the filtration system

Utility relocation along Railroad Avenue to facilitate upcoming TE Grant project

Authorization for the Mayor to sign the Easement document

There was a motion to approve the Consent Agenda

MOTION: Kris Yardley
SECOND: Chris Fetterman
Unanimous

UNFINISHED BUSINESS:

5509 Main Street Rental Agreement
City Manager Andrew – Tab 2

There was a motion to extend the \$1 rate lease with 5th Row Center for the rest of the Contract term, as friendly amended.

MOTION: Joe Anglin
SECOND: Tara Richards

Discussion:

City Attorney Bennett explained that there are 2 ways Council can go. You can extend leniency on the current contract but you take a risk. The other thing to think about is if you show grace, Waiver is an option but you may inherit yourself a risk come August 1st of having to have a little legal work if for some reason 5th Row Center and the City can't strike a new deal for how we will handle before then.

City Attorney Bennett stated if he were to offer them the rate of \$1 the rest of the year, he would do it contractually and change two sections. The one section would be the monthly rent and the other section to get changed would be the hold over section. What happens on August 1 if we do not have a contract? We can't agree to allow them to stay and not sign a new contract but continue to pay a certain rent. If you want it to be more than a dollar than we would need to say so right there. In other words if you hold over on August 1 your rent will be "X".

The other scenario we need to deal with in the hold over is say we tell them they need to go at the end of a year, they say no, we're staying then you need to insert a rent number there. That's called being a tenant at sufferance, and this is usually a higher number.

City Attorney Bennett continued to explain that the way the contract is currently written now, the tenant at will number was \$250 dollars a month. That's when they stay over the contract with your permission. Tenant at sufferance is double that, \$500. What I would need to do is if you wanted to keep that the same, is I would need to change that section. If you're at will, its \$250; if you're a tenant at sufferance it is \$500 and change the other section to make it a \$1.

City Attorney continued saying if I make the rent section \$1, then the tenant at will would automatically be \$1. Come August 1, it would be \$2 if we don't want them to stay.

City Attorney Bennett informed the Council that this does not have to be a vote. If you tell me that the Council wants it to continue as a dollar for the next six months but when August 1 rolls around I don't want it to be a dollar anymore, I want it to stay the way it was, the \$250 and the \$500 that would be my recommendation. Let me type that up and put it in your packet for the next meeting.

Council Member Yardley stated that the amendment was friendly amended, Council Member Anglin will accept the amendment and we'll just vote on it as it is.

City Attorney Bennett remarked, \$1 dollar rent, \$250 tenant at will and \$500 tenant at sufferance.

Unanimous

1st Reading Ordinance 446

City Attorney Bennett read the 1st reading of Ordinance 446, amending Chapter 8, Alcoholic Beverages, Article 3 Licensing and Regulation of the Code of the City of Flowery Branch, GA. The amendment adds Section 8-129 to Division 1 generally which provides for the regulation of sales off premises for catered functions; adds Section 8-130 to Division 1 which provides for the regulation of Malt Beverage and Wine Tastings; repealing all conflicting ordinances; providing for severability and for all other lawful purposes.

A motion was made to approve the 1st reading of Ordinance 446.

MOTION: Kris Yardley
SECOND: Tara Richards

Discussion;

City Attorney Bennett also included the changes: With the addition of 8-130 Subsection A and striking B, 2 and 3 and renumbering that accordingly.

Council Member Swafford asked if the time frame shown, the 25 days, needed to be changed.

City Manager Andrew mentioned that people may be trying to do things around Christmas and if we are trying to check things around Thanksgiving there may be people at the State not working. Perhaps we can make it business days or working days. If we said 10 working days that would be enough.

City Attorney Bennett noted the change to the time frame as well, from 25 days to 10 business days.

Council Member Swafford confirmed that this vote is only for the Ordinance, not on the fee schedule right now.

City Attorney Bennett replied that is correct, just Ordinance 446.

Unanimous

Consideration of changes for Red Oak Sanitation

City Attorney Bennett informed the Council that if they do not desire to make any changes to the Contract then no action is necessary.

A motion was then made to appoint to the TAD Committee for 2011 the following individuals; Council Members Tara Richards, Joe Anglin and Amanda Swafford; City Manager Bill Andrew and City Planner James Riker.

MOTION: Kris Yardley
SECOND: Chris Fetterman
Unanimous

A motion was made to exit the Voting Session of the meeting and enter into Executive Session for the purpose of Land Acquisition and Pending/Potential Litigation.

MOTION: Kris Yardley
SECOND: Tara Richards
Unanimous

A motion was made to exit the Executive Session at 8:41 pm.

MOTION: Tara Richards
SECOND: Kris Yardley
Unanimous

Most made to adjourn the Voting Session at 8:42 pm.

MOTION: Kris Yardley
SECOND: Tara Richards
Unanimous

ADJOURNMENT:


Mayor James Miller

3-17-2011
Date


Lou Camiscioni – Interim City Clerk