CITY OF FLOWERY BRANCH
Council Meeting
Public Hearing Minutes
Thursday April 21, 2011 6:00 pm

OPEN MEETING:

Mayor Miller opened the Public Hearing at 6:05 pm

PLEDGE OF ALLEGIANCE

PUBLIC HEARING:

Hearing #1: - Zoning Code Amendment No. 348-12 – Sandy Jones, on behalf of Jones-Hall Ventures, Inc., has filed an application to amend Article 24 "Signs" Sect. 24.33, Changeable Electronic Multiple Message Signs" of the Zoning Code. Specifically, the applicant is seeking to modify Article 24 Sect. 24.33 Note (g) "Duration of Message"
City Planner – James Riker – Tab 1

City Planner Riker reviewed with Council the application that Sandy Jones submitted to the Zoning Department in its entirety. The "Duration of Message" was the focal point of the discussion. Mr. Jones is seeking to modify the Zoning Code and that change, could not only affect billboards, but also it could allow modifications to monument signs now as well. The current code has a formula base to it and it identifies that the message should remain fixed for certain periods of time that would result in one message per one mile at the highest speed limit within 5,000 feet of the sign.

City Planner Riker continued by stating that the applicant is seeking to simplify that language and turn it into a requirement that states each sign shall remain fixed for at least 10 seconds. That is the state requirement by the Georgia Department of Transportation. Mr. Jones owns two billboards that are on Interstate 985 and when you formulate the requirement for 70 miles per hour on I-985, it would mean that if he were able to install a changeable, electronic sign that his message would have to stay fixed for 49 seconds.

City Planner Riker also stated that various studies were relied on in the past to develop these regulations as referenced in the Zoning Code and have been made available to the Council as well. The applicant has provided a couple of other studies and a report paper from the industry that essentially provides a different perspective on the safety issues for allowing these signs.

City Planner Riker mentioned also that over the week information was received from Commissioner Lutz clearly indicating that the studies provided by the applicant appeared to have been funded by the Outdoor Advertising Associates of America. Receiving this information prompted the City to go out and find other information that could serve as a

mediation point. The U.S. Department of Transportation Federal Highway Administration website references the reports that have been published, and stated that when regarded from a scientific perspective, the present literature review does not provide an adequate answer to this question. In other words, the studies reviewed are inconclusive.

PUBLIC COMMENTS:

Council heard from Sandy Jones, 5955 White Stone Lane, Suwanee, GA. Mr. Jones explained to the Council that what he is trying to do is take the existing billboard on I-985 at Spout Springs Road, southbound side, and convert the sign from a mechanical message-changing billboard to digital. The current sign has a 49-second hold on it, that is what the regulations allow and we were advised the best way to accomplish that was to do a zoning amendment.

Mr. Jones continued by saying that if he cannot get that signed changed over to digital he would just not do anything in that area. Economics just do not support a quarter of a million dollar investment in signage that would sit there and become a static billboard.

Mr. Jones mentioned also that he and his company have an agreement with the FBI and GBI for Amber Alerts. A normal rotation for a sign would be six 10-second spots, and when an Amber Alert is issued, a 7th spot is inserted.

Mr. Jones explained to the Council that in the current code there could be a way to eliminate two digital signs directly across the road from each other. Should the request be approved, someone with proper zoning could still build a digital sign across the street that might have changing messages. From a safety perspective, there are two ways to deal with that. You could change your ordinance to require a 5,000-foot radius, or do what other jurisdictions have done, require a 3,500-foot distance between signs that are across the street from each other. The City's ordinance now reads 5,000 between signs on the same side of the street.

Wilton Rooks, 6345 Barberry Hill Drive, Gainesville, GA. Mr. Rooks is with Scenic Georgia, a non-profit organization interested in preserving and enhancing the scenic aspects of Georgia, including digital billboards. The Association of State Highway and Transportation Officials established a 2-second period for distractions as sort of a limit for safety issues. Rapidly changing billboards inherently tries to keep the drivers eyes distracted for a longer period. When digital signs change on 10-second frequency, then there is a tendency for the driver to keep looking to see what the next message might be. Another area that is often times overlooked is the energy demand of the boards. One typical digital billboard consumes over 397,000 kilowatt-hours a year. That is the equivalent of 49 static boards, 18 cars, or 13 houses. The more water has to be consumed to produce that energy. Mr. Rooks went on to inform the Council that digital billboards are the brightest object in the sky often times the lumens they omit are actually brighter than the sun; quite distracting at night time.

Mr. Rooks ended by stating that Flowery Branch now has an ordinance that is in keeping with the best recommendations. He urges the Council to keep that ordinance and to stay with it. Future concerns coming up have prompted the Federal Highway Administration to complete a safety consideration by this summer. Mr. Rooks then asked the Council what are the legal liabilities for

our municipalities if in fact, down the road it turns out that a policy or ordinance that is passed by the municipality does in fact lead to safety issues.

Craig Lutz, 8072 Sleepy Lagoon Way, Flowery Branch, GA. Mr. Lutz expressed the following to the Council.

Honorable Mayor and Distinguished Council members. My name is Craig Lutz and I live at 8072 Sleepy Lagoon Way, in the beautiful city of Flowery Branch. Today you are receiving public input on an issue that may seem trivial. The issue before you is how often a light emitting multiple message billboards should change. You have been presented the opportunity to review several studies including some provided by the Outdoor Advertising Association of America. These studies do conflict with each other on the actual impact LED billboards have on driving safety and conditions. Putting aside the self-interests for a moment lets look at the rational for the code. Presently, the ordinance is designed to allow for LED billboards in our city, but limits the transitions to minimize the impact. The thought at the time was to allow for transitions, but to keep them down to one transition per vehicle pass. As it turns out, the billboard company does not see this as profitable and they have come to you for your permission to relax the regulation.

That brings us to the age-old question: when should government regulate and how much should they regulate? From the most conservative point of view, the only time that government should regulate is when there is a failure in the market. The two most appropriate and noted times are when there is a lack of competition (no market), or when there are negative externalities, like pollution. Externalities occur when there are hidden costs associated with the economic activity. You could also take the route that the only purpose of government is to safeguard rights. In this case, we have ideas and philosophies that collide with each other. Should the billboard company maximize their profit, even if there is a chance that it jeopardizes public safety, or should the big bad government stick with a regulation that may or may not be justified?

You are here discussing this rule because I was the one that came up with it. I did the research. I felt then and still feel now that the transitions in the LED billboards create a safety issue. I had enough confidence to standby this decision, even when the Chairman of the GOP called me a RINO. My feeling is that there are externalities that justify the regulations. After reading the research provided by the Outdoor Advertising Association of America and the research provided by organizations as Keep America Beautiful, I concluded that there are a number of safety concerns with LED billboards. In the case of the multi message billboard on Spout Springs, I believe there are serious issues. For those that travel down Spout Springs, take a look at the board and imagine it as a multiple message LED board, changing every 10 seconds or so. This board happens to be in the same sight line as the traffic signal on Hog Mountain road.

If you believe that there is a safety concern, then you should know that there would be hidden costs like higher insurance premiums and higher taxes. As accidents occur, everyone in our zip code should expect to see higher premiums due to the increase in property damage. Red light accidents increase the risk for insurance companies and they will pass along the risk to all of the consumers. Higher taxes or reduced services could be an issue as our police force deals with multiple fender benders. If our resources become tied up, then we will need to either deal with the loss of service or increase taxes to hire more personnel. Perhaps you feel that the only purpose of government is to safeguard rights. First, I would ask whose rights are being safeguarded. Are you considering the interests of the community, or just the interests of the one business? Are you willing to take the risk to jeopardize the safety of our community for profit that the community would never see?

There are some on the board that I will not be able to convince. It is my hope that you take the time to do the research, just as I did when I was on the Council. I hope that you personalize the issue by thinking of someone that could be in an accident. If you change this ordinance and a billboard is erected, you will not have the ability to reverse your decision. If the board distracts the driver and an accident occurs, what will your thoughts be? Is this like texting while driving? Is it like a eating your Chick-Fil-A sandwich in the car? Drivers are distracted all the time. While texting and eating in the car are issues, they are issues that the individual created. A billboard is an external distraction. I ask that the council table this issue indefinitely. This will allow you the opportunity to do your own research on the issue.
Thank you.

ADJOURNMENT FROM PUBLIC HEARING:

The Mayor closed the Public Hearing at 6:32 pm

CITY OF FLOWERY BRANCH
Council Meeting
Work Session Minutes
Immediately following Public Hearing
Thursday April 21, 2011

CALL TO ORDER:

Mayor called the Work Session to order at 6:32p.m.

PUBLIC COMMENTS:

There were no Public Comments.

UNFINISHED BUSINESS:

There was no Unfinished Business to discuss.

NEW BUSINESS:

Discussion – Draft meeting minutes from April 7, 2011
Interim City Clerk – Tab 2

Interim City Clerk Camiscioni informed the Council all edits received had been incorporated into the version each member had in his or her workbook.

Discussion – 1st Reading of Ordinance No. 348-12 – A Zoning Code Amendment to modify portions of Article 24 of the Zoning Code relating to "Changeable Electronic Multiple Message Signs"
City Planner – Tab 1

Council Member Fetterman asked for clarification on the location for the billboard in question. City Planner Riker stated that the billboard Mr. Lutz mentioned is owned by Lamar, it is located on Spout Springs Road and is not the sign in question. The billboard in question is located on I-985.

City Planner Riker stated that the section in the current Zoning Code dealing with separation reads no such sign shall be located within 5,000 feet of another multiple message sign on the same side of the highway. If Mr. Jones were going to get his sign converted to an LED board, the City would not consider the sign on Spout Springs Road as being on the same side of the highway because it is orientated toward Spout Springs Road. However, if it were the Council's desire to say we do not have an issue with Mr. Jones' board, then perhaps the discussion needs to take

place as to whether the language reading on the same side of the highway needs a radius giving distance around that existing sign that would encompass any other sign on it.

City Planner Riker also stated that as the ordinance reads now, we could have a sign on I-985 facing southbound and one northbound and they could be directly across from each other because we do not have a radius requirement, we have a same side of the road requirement.

Council Member Fetterman then asked the City Planner if the sign on Spout Springs is already classified as a multiple message board under our current ordinance.

City Planner Riker responded that if it is a tri-vision board, it is and according to DOT, Lamar may have installed that sign without proper permits.

Council Member Fetterman said that nevertheless we already have a sign there that falls under our ordinance. He asked whether it is there illegally or not.

City Planner Riker replied that sign is there and in fact, Mr. Jones' sign is a changeable tri-vision sign right now.

Council Member Fetterman responded we already have two on the same side of the road that violates that ordinance.

City Planner Riker responded no, because Lamar's sign is considered to be on Spout Springs Road, not I-985.

Council Member Yardley then asked how tall the sign on I-985 is. He was told it was 135 feet tall.

City Planner Riker clarified one point with Council on the illumination of the LED signs. An update to our code in December 2010 and January 2011 provides a revised section relating to illumination and requires dimmer controls. We also have a standard that relates to the "nits" that are produced off those signs.

Discussion – Annexation of Wastewater Treatment Plant Spray Field
City Planner – Tab 3

City Planner Riker addressed the Council on a Spray Field, currently owned by the City, Hall County and the City of Oakwood. The City of Flowery Branch maintains the site, which sprays reuse water from our water treatment plant. We would like it to be annexed into the City so we can control calls for service on the property. There have been cases of vandalism at the site that the Chief of Police cannot respond to because it is outside of our jurisdiction.

City Planner Riker continued by saying, that what is requested, is to authorize the Mayor to send a letter and an application to both Mayor Lamar Scroggs and Chairman Tom Oliver to get their authorization to have this annexed into the City of Flowery Branch. This will not resolve the ownership issue at this time but at least it brings this property into our City limits.

Council Member Fetterman asked the City Planner if this would create an island.

City Planner Riker responded that they had been looking at that and is of the opinion that if the County and the City of Oakwood consent to this, then the issue of an island would not be a problem.

DEPARTMENT REPORTS:

City Manager Report

On March 30, 2010, we attended a meeting at the Mulberry Creek Community Center to hear a presentation on the 2011 Tax Digest. At that meeting, it was widely reported that Flowery Branch would be going up with in its gross taxable value, 2.39% mostly to do with the Falcon's complex. In fact, Flowery Branch was the only City in the County seeing a positive change to our values. Scott Martin who is with the Tax Commissioner's Office came by personally today and they had been redoing their numbers and found that the City of Flowery Branch would not be seeing an increase of 2.39% but in fact see a decrease of at least 4.47%. Our City is seeing more of a negative change than any other city as well. These are early, preliminary numbers and subject to change substantially. The numbers could even go lower. Using those numbers the City would see around a $34,000 dollar decrease from what was projected this year. Scott thought it could go as low as $40,000.

Interim City Clerk Report

Nothing to report

City Planner Report

Nothing to report

City Attorney Report

Nothing to report

Council Report

Council Member Swafford commented that she was happy to see that Sunday alcohol sales passed out of the legislature and she will be looking forward to get the get the wheels in motion so that it can be brought up as a possible consideration on our ballot in November.

Council Member Fetterman commented on the Spring Festival and the great job Boy Scout Troup 228 did.

Council Member Yardley made known his support for putting the Sunday sale referendum on the ballot. Council Member Yardley also mentioned Council Member Swafford's Relay for Life

CITY OF FLOWERY BRANCH
Council Meeting Agenda
Voting Session Minutes
Immediately following Work Session
Thursday April 21, 2011

OPEN VOTING SESSION:

Mayor Miller opened the Voting Session at 7:08 p.m.

CONSENT AGENDA:

Consider - Draft meeting minutes from April 7, 2011
Interim City Clerk – Tab 2

Consider - Authorizing Mayor to send letter to Oakwood and Hall County Government seeking consent to annex spray field
City Planner – Tab 3

A motion to approve the Consent Agenda was made

MOTION: Kris Yardley
SECOND: Joe Anglin
Unanimous

UNFINISHED BUSINESS:

No Unfinished Business

NEW BUSINESS:

Consider - 1st **Reading of Ordinance No. 348-12 – A Zoning Code Amendment to modify portions of Article 24 of the Zoning Code relating to "Changeable Electronic Multiple Message Signs"**
City Planner – Tab 1

City Attorney, Dick Carothers, read Ordinance No. 348-12 to the Council.

A motion was made to approve the first reading of Ordinance No. 348-12 as read.

MOTION: Kris Yardley
SECOND: Amanda Swafford

Discussion:

Council Member Richards reminded the Council that the 5,000-foot radius (distance) between signs needed to be added to the motion.

City Attorney Carothers recommended that the change to the ordinance wait until Staff make the modifications. These changes will be implemented and heard at the second reading of the ordinance.

Council Member Fetterman reminded the Council that he was on the Council when this ordinance was instituted. A lot of discussion went into the ordinance as well during that time and he would be voting no for this modification. Safety has to be addressed and as it has been pointed out by Mr. Rooks, those billboards have to distract drivers because that is what they are designed to do.

AYES: Amanda Swafford, Kris Yardley, Joe Anglin and Tara Richards
NAYES: Chris Fetterman
Motion Carries

EXECUTIVE SESSION:

- ~~Land Acquisition~~
- **Personnel Issues**
- ~~Pending/Potential Litigation~~

A motion was made to adjourn the Voting Session and enter into an Executive Session for the purposes of Personnel Issues.

MOTION: Chris Fetterman
SECOND: Kris Yardley
Unanimous

A motion was made to adjourn the Executive Session and re-enter the Voting Session.

MOTION: Chris Fetterman
SECOND: Kris Yardley
Unanimous

A motion was made to adjourn the meeting.

MOTION: Kris Yardley
SECOND: Chris Fetterman
Unanimous

Christopher M Yardley 5-5-2011 Lou Camiscioni

~~James M. Miller~~ – ~~Mayor~~ Pro-Tem Date Lou Camiscioni – Interim City Clerk
KRIS YARDLEY