



**CITY OF FLOWERY BRANCH**  
**Public Hearing**  
**Thursday, August 18, 2011 6:00 pm.**



**CALL TO ORDER:** Mayor Mike Miller called the meeting to order at 6:01 p.m.

**IN ATTENDANCE:** Mayor Mike Miller, Council Members: Amanda Swafford, Chris Fetterman, Kris Yardley, and Joe Anglin. Also in attendance were City Manager Bill Andrew, City Planner James Riker and City Attorney Ron Bennett

**ABSENT:** Council Member Tara Richards

**PLEDGE OF ALLEGIANCE:** Council Member Anglin led the pledge of allegiance

**PUBLIC HEARING:**

There is one public hearing on the agenda which is Ordinance 450 - Amendment to Chapter 5 Adult Entertainment of the adopted Municipal Code. City Planner Riker stated that the City is currently in the process of creating M-2 as a new zoning category. The City does have a complete section in the code in regards to Adult Businesses, which covers permitting, licensing, etc. and is very comprehensive. When the M-2 district is created, it would be correct to include M-2 as an appropriate location for adult entertainment. City Planner Riker stated that citizens have called regarding this proposed change wanting to know if this change would allow or encourage adult businesses. This proposed change is merely a housekeeping matter and would create consistency between the zoning code and the municipal code. There are currently no properties that are zoned M-2 and even if the zoning code amendment were to be approved to create M-2, there would still be no properties that will have the M-2 classification.

City Planner Riker stated that adult business cannot be prohibited, but they can be regulated. In discussions with City Attorney Ron Bennett it was verified that the current ordinance of the City regarding Adult Businesses is rather comprehensive. City Attorney Bennett indicated that the code adopted by the Flowerly Branch City Council is based on the Gwinnett County Adult Entertainment Ordinance. City Attorney Bennett's law firm has defended the Gwinnett County Ordinance up through the 11<sup>th</sup> Circuit Court, so there is a Court of Appeals decision that has upheld a Code substantially similar to the one adopted by Flowerly Branch.

**PUBLIC COMMENTS:**

Mr. Ed Lezaj approached to caution the City Council to be aware of where they are allowing heavy industrial type businesses as these changes will affect the future of Flowerly Branch. Mr. Lezaj stated that he had originally come to the meeting because he had heard misinformation regarding the proposed changes. However, Mr. Riker has explained the changes very well and he has no problem with the proposed changes.

Mayor Mike Miller verified that he had received several calls and emails in regards to this item. Apparently, someone had started a rumor that there was an adult business that was planning to open in the City. Mayor Miller is not aware of any proposed adult business and neither is City staff.

ADJOURNMENT PUBLIC HEARING

Mayor Mike Miller closed the Public Hearing session and opened the work session at 6:10 pm.



**CITY OF FLOWERY BRANCH  
Work Session  
Immediately following Public Hearing  
Thursday, August 18, 2011**



**PUBLIC COMMENTS:**

Mr. Jack Reese, who lives in Newberry Point, approached to say that he was at the City Council meeting about 6 months ago when the garbage service was changed. Mr. Reese stated that he was advised at that time to return in about 6-7 months because he would be pleasantly surprised with the new trash service. Mr. Reese states that he has three trucks that come down his street on Mondays, the trash truck picks up one side of the street and then picks up the other side and there is also a recycling truck that comes through. Mr. Reese is not happy with the increased traffic. Mr. Reese further stated that there was no notice given out that the chipper truck was going to be discontinued. There are limbs and bags of leaves in his neighborhood and downtown that have not been picked up. Mr. Reese stated that he did not know about Sterling, he was assuming that they still had the service. Some of the limbs and bags have been sitting in his neighborhood for 2-3 months. The question Mr. Reese wanted to ask was what are the citizens of Flowerly Branch receiving for their tax money? Gainesville Street [grass] is cut out past McEver, but the edges of the road are not cut past Mr. Reese's subdivision. There is also garbage in the ditch.

Mayor Miller stated that on the agenda for later in this meeting is an amendment to the Red Oak Contract which may address some of Mr. Reese's issues in regards to the chipper. City Manager Andrew indicated to the Mayor that if the Council wanted to address the item regarding the chipper now, it could be moved forward on the agenda. The proposed amendment to the Red Oak contract was listed as the last item under new business, but since there was a consensus among the Council to move it forward, it will be addressed prior to the unfinished business listed on the agenda.

City Manager Andrew stated that members of the City staff have taken notice of the limbs that have been accumulating in residents' yards. City Manager Andrew and the Public Works Director have spoken about this issue and as a result, have proposed an amendment to the existing sanitation agreement with Red Oak Sanitation, Inc. There will be no change to the billing for the customer. After discussions with Red Oak, the proposal is to have the chipper truck go out on the same day as the trash pickups are done. The chipper would go through the entire city on the scheduled day and pick up limbs that are no more than 4 feet in length and 6 inches in diameter. There would not be a bundling or volume requirement. However, limbs that are cut by a professional service for the homeowner would not be eligible for the chipper service. Red Oak has agreed that they will change the number of yard waste bags that they will pick up from five bags to seven bags in exchange for the city handling all limbs.

The mulch from the chipper would be able to be used on Atlanta Highway for the plantings located there. As there has already been a need for 26 loads of mulch for the plantings on Atlanta Highway and there will be an increase in the plantings due to the second phase of the Gateway Grant, City Manager Andrew feels confident that the mulch generated by the chipper would be used by the City.

Council Member Anglin questioned where the mulch generated by the chipper would be stored. City Manager Andrew stated that in the past the mulch has been stored at the wastewater

treatment plant and that could be done again. There is also the possibility that the covered area on the Mooney property could be used to store the mulch. City Manager Andrew indicated that the main issue with the picking up of the limbs by Red Oak is that the limbs must be bundled. However, the City has a more lenient policy towards picking up limbs and no bundling is required.

Council Member Swafford verified that the original contract with Red Oak was for the limbs to be picked up. City Manager Andrew stated that Red Oak was picking up material, but only if it was bundled to their standards. Using the City chipper would be beneficial to the City because not only can the City provide expand chipper service, but the City can also use the mulch that's generated. In addition, if Red Oak is not handling the limbs, they would be able to provide more service with picking up grass clippings and leaves.

To address Mr. Reese's other concern regarding the number of trucks in his neighborhood on Monday, Council Member Yardley stated that this will not cut down on the trucks providing service; it will actually increase the number of trucks by one. Recycling is done at the request of citizens and recycling material cannot be put in the same truck as the regular trash. Council Member Yardley indicated that the contract with Red Oak does not address the actual routes, but it did stipulate that single axle vehicles would be used and that trash could only be picked up on one day of the week. Mr. Reese stated that there is only one person on the back of the truck, instead of two, which is causing Red Oak to only be able to pick up one side of the street at a time. Council Member Yardley stated that he could not address the manpower provided by Red Oak for the routes.

City Manager Andrew stated that Red Oak wanted to know if they could change the pickup day in the City to Thursdays. There is the possibility that changing the pickup day could address any manpower issues that they might be having. The contract with Red Oak does not stipulate a specific day that trash must be picked up. If there was a change made to the pickup date, Red Oak would send out a letter to their customers advising them of the date change and the reintroduction of the city chipper service. City Manager Andrew indicated that he does remember that a letter was sent out regarding the discontinuation of the chipper service, but that he does not remember exactly what the letter said.

Mr. Ed Lezaj indicated that he also wished to speak on this issue. Mr. Lezaj stated that he also was not happy when the trash service changed, but that he learned to live with it. Red Oak is doing a great job. Mr. Lezaj did ask City Manger Andrew if there would be a change in the cost as Red Oak is looking at increasing the amount of yard waste being picked up. City Manager Andrew verified that the cost to the citizens would not change since the City would now be collecting the limbs.

Council Member Fetterman verified that the trash and yard waste are being put in the same truck, which is now allowed by state law.

Council Member Yardley further stated that Red Oak also has a large item pickup available for the citizens.

#### UNFINISHED BUSINESS:

- ❖ Second Reading of Ordinance 348-13

The proposed amendment would modify portions of Article 2, "Definitions and Interpretations", Article 3, "Establishment of Districts and Official Zoning Map", Article 9, "Nonresidential Zoning Districts", Article 16, "Adult Businesses", Article 21, "Parking", Article 23, "Outdoor Lighting", and Article 24, "Signs".

City Planner Riker reiterated that there are no properties in the City that are zoned M-2. This change would only create the district and rezoning applications would come before the Council if someone were to wish to change their property to the M-2 zoning classification. If this amendment were to be approved, it would change the M-1 zoning classification into a "light" industrial district and would place some restrictions on what would now be allowed in the M-1 district.

❖ Second Reading of Ordinance 445-A

City Clerk Burney stated that this ordinance is solely to change one of the absentee ballot clerks for the 2011 General Election from Lou Camiscioni to Janice Harris. Mr. Camiscioni has moved across the street to the building where the Planning Department is housed and Janice Harris has moved over to the front desk of City Hall. Due to the fact that Mr. Camiscioni is no longer located at City Hall and Ms. Harris is, it is requested to allow Ms. Harris to be listed as one of the Absentee Ballot Clerks.

NEW BUSINESS:

❖ First Reading of Ordinance 450

This is an amendment to Chapter 5 Adult Entertainment of the adopted Municipal Code. A public hearing was held at the beginning of this meeting.

Council Member Fetterman verified that the City is unable to prohibit adult entertainment business entirely. Council Member Fetterman further verified that since there is not an M-2 zoning designation in place, adult businesses are allowed in M-1. Council Member Fetterman wanted to know that with the creation of the M-2 zoning district, could adult businesses be prohibited in the M-1 zoning and only allowed in M-2 zoning. City Planner Riker verified that as the M-2 district grows, it would allow the City to evaluate the availability of areas for adult businesses to be located. There are distance requirements in the Adult Entertainment Ordinance regarding proximity to churches, schools, and residential districts. Even with the distance requirements in place, the feeling of City Planner Riker and City Attorney Bennett is that there was ample room for adult businesses to locate. The availability of adult businesses being restricted to M-2 zoning may need to be reassessed at a later date.

Council Member Fetterman questioned why churches are listed as conditional uses, while adult entertainment establishments are listed as permitted. Due to the distance requirements outlined, if a church was to be located in one of these areas, would there then be an issue regarding availability for an adult entertainment business? City Attorney Bennett indicated that if a church were to be located in either the M-1 or M-2 zoning classification, the City would then need to revisit the ordinance. To determine the distance requirements that are in effect now, City Attorney Bennett looked at appellate court cases to get a sense of what triggers not having enough availability. As annexations and population changes occur, the locations available will change.

City Planner Riker indicated that there is currently a movement by the Adult Entertainment industry to prove that the studies used by the cities to come up with their restrictions for adult entertainment businesses are not valid and that there should not be additional regulations imposed.

City Attorney Bennett stated that Daytona Grand was the most recent case. Basically, the main reason that adult businesses can be regulated is because of the “pernicious secondary effects”. The adult entertainment itself cannot be regulated, but what goes along with the business can be regulated (drug use, prostitution, etc.). The Daytona Grand case alluded to the newer studies do not indicate there “pernicious secondary effects”. City Attorney Bennett and City Planner Riker are confident that the City has the tightest Adult Entertainment Ordinance currently allowed.

Council Member Yardley verified that the Religious Land Use and Institutional Persons Act (RLUIPA) is addressed. RLUIPA states that churches can be treated equally, just not adversely different than any other public place of assembly. Council Member Yardley asked why churches were prohibited in CBD, but conditionally allowed in M-1 and M-2. City Planner Riker indicated that how a church would operate in a heavy industrial district would not be ideal. There would be ingress and egress uses and potential playground uses. Churches are not a very compatible use with a heavy industrial district. Adult businesses are placed there because heavy industrial would be the most isolated district available. Churches could easily be at odds with businesses in a heavy industrial district due to noise concerns.

DRAFT MINUTES: City Clerk Burney presented the draft minutes from the August 8 Council Meeting. The changes requested by Council Member Swafford were incorporated and the changes were emailed out to the Council Members this morning. Council Member Fetterman corrected a mistake made on page 8 of the minutes where City Planner Riker was referred to as Council Member Riker. This error will be corrected.

Council Member Swafford wanted to know about the exhibits that are attached to the minutes. Some of the exhibits are emails that have been submitted through the website. Since the submissions include email addresses, when the minutes and exhibits are posted to the website, the email addresses will be posted also. Council Member Swafford has had some discussion with City Manager Andrew about this and feels that when emails are submitted to the City that the person sending the email should be advised that their email address becomes a public record. City Manager Andrew indicated that he has discussed this with City Attorney Bennett and they feel that the official minutes kept at City Hall should contain the addresses. City Manger Andrew stated that there is not a requirement to have the minutes on the website at all, so the Council can make the decision in regards to potentially redacting the email addresses on submissions. City Attorney Bennett stated that a disclaimer may need to be added to the City website letting people know that all submissions concerning city business are open to public record laws. Council Member Swafford stated that people may not be aware that when they are submitting an email that their email address can be seen and may be published as a document on the City’s website which is accessible to anyone with an Internet connection. Mayor Miller verified with the other members of the Council that the decision would be to redact the email addresses for the minutes that are posted on the website.

NEW BUSINESS:

- ❖ First Reading of Ordinance 451

City Planner Riker stated that the Council has requested staff look into the creation of Street Lighting Assessment Districts. Prior to the creation of the districts, an ordinance must be passed that establishes the framework to create the districts. Ordinance 451 would allow the City to create Special Assessment Districts. City Planner Riker and City Attorney Bennett have worked on creating these districts and have looked at several other cities, including Gainesville, to help provide a framework. This ordinance does not create the districts or set fees, it outlines the procedures to create the districts.

City Planner Riker addressed some specific items in the ordinance to bring them to the attention of the Council. Page 2 of the ordinance covers cost of service, responsibility for costs, defines tax lots or parcels, talks about payments and fines, and indicates responsibility for billing. On page 3, Section 42-9 addresses the creation of the districts. The ordinances that were looked at allow creation in two ways: first, (a) by petition of a neighborhood to be added to an existing district and second, (b) the City initiating a street lighting district on its own. Research done by City Attorney Bennett indicates that the powers of the law allow the City to create these districts by ordinance. However, cities that have these districts have normally held two public hearings during the creation of these districts. Holding two public hearings is at the discretion of the Council. The executive summary on the staff report reflects a tentative schedule for creation of the districts and that schedule would be as follows:

August 18, 2011	First reading of Ordinance 451 (creating framework for district)
September 1, 2011	Second reading of Ordinance 451 (final adoption)
September 15, 2011	First public hearing regarding special assessment district map
*September 29, 2011	Second public hearing and adoption of special assessment map
*September 29, 2011	Adoption of Resolution establishing fees and charges for districts

\*indicates special called meeting

The reason for the special called meeting was because the Council has said they would like to have this accomplished by October of this year as that was how the budget was approved. The tax bills traditionally go out the beginning of October. There is no requirement that states the Ad Valorem tax bills must go out on October 1<sup>st</sup>, so if the Council feels that a special called hearing on the 29<sup>th</sup> of September is not appropriate, then the second public hearing would be held at the first meeting in October on the 6<sup>th</sup>. The ordinance does not indicate the mailing of notices to individual property owners and no amount was budgeted for that. The notice would be an ad in the Gainesville Times and also being published on the City meeting agenda.

City Planner Riker indicated that there are some draft maps prepared for review by the Council. In order for this item to be put on the tax bill, there would need to be some direction from the Council. These maps show what has been identified to date as options and some possible obstacles. An inventory of street lights was received from Georgia Power, but it was not in a GIS format. The map reflects the light types and UG on the map indicates underground and OH on the map indicates overhead. All of the publicly paid for street lights in the City are reflected on this map. At the retreat earlier this year, the Council indicated that they would like to look at these districts in some different ways: by light type, geographic area etc.

City Planner Riker discussed the first map (Exhibit A) which is organized by light type. The red areas have 150 watt post top lights with underground service. These are primarily

located in Madison Creek, Newberry Point, and Portsmouth. There are some of these lights located at the City Park. However, as the City Park is not inside the City limits, it was not included in determining lighting districts. The blue areas have 100 watt cobra head lights which are the most common light in the City. The Main street lights are identified and this map includes the 13 new street lights that are to be placed on Railroad Avenue soon. Atlanta Highway is identified as a separate area as they have different lights, 400 watt directional flood lights, which is the most expensive light type located in the City.

City Planner Riker showed Exhibit B which is one possible scenario for the street lighting districts. Exhibit C shows a breakdown of the map which is Exhibit B. This list reflects the breakdown of the number of lights in each potential district. There are 36 lights located in Newberry Point and Madison Creek. Each of those lights costs \$16.17 per month. There are 207 parcels in those 2 subdivisions, so each parcel would have to pay \$33.75 each year. The discrepancies become more obvious when looking at the Atlanta Highway area as there are only 39 properties and the most expensive lights are located there. Based on Exhibit B, the price per parcel would be \$205.00. The 23 lights listed on Exhibit C are the 10 street lights that are already in existence and the additional 13 that are to be installed. The number of parcels reflected does not include properties that are not receiving a tax bill (non-exempt properties). However, City Attorney Bennett pointed out that there do not have to be any exemptions in creating the street lighting districts. There are only about 10 to 15 parcels that are currently not included as they do not receive tax bills. There are 696 parcels included and they are legally identified tax parcels. There is the possibility that some of these parcels may not have a building on it.

Council Member Fetterman wanted to know if Madison Creek would be considered as an HOA as the City already has an agreement with them. City Planner Riker stated that the City's agreement with Madison Creek states that if the City does come up with assessment districts, then the current agreement will be void.

City Planner Riker then showed the second map (Exhibit D) which breaks down the lights as if they are all considered public lights and the cost among the areas identified as belonging to the potential assessment district are shared. Some properties were left out as the only properties that are to be included are ones that are within 200 feet of an established street light. On this map and on the previous map, there are a few neighborhoods, Waterstone Crossing, Clarkstone Village, Tidewater Cove and Mulberry Village that are not included as they pay for their own street lights. The breakdown of this map (Exhibit E) by light type reflects a cost to each parcel of \$51.43. City Planner Riker indicated that neither of the maps presented is supposed to indicate a recommendation; it is merely a suggested approach. At this point, City staff is requesting direction from the Council.

One potential issue that has been identified in conjunction with the first proposal (Exhibit B) is that some citizens may feel that they would have to pay for street lights that are not in their immediate area. Citizens and businesses that are located on Atlanta Highway may feel that they will be paying for lights that people driving on Atlanta Highway will also get the advantage of. On the second map (Exhibit D) there is the possibility that citizens may feel that if they are having to help pay for lights on Atlanta Highway, shouldn't the neighborhoods with HOA's need to be contributing to those lights also. On the second map, when some of the additional areas are added, the bill would go down because there are now 1324 parcels being included. This would bring the cost to about \$27.00 per parcel each year. Then the idea was presented that everyone in the City receives a benefit from the street

lights. The final number of parcels presented as 2700 is the number of tax bills that are sent out each year. Then the concern was presented that Sterling pays for their street lights not the City even though those streets are considered to be public roads. The annual bill for street lights in Sterling is \$55,000.00.

City Planner Riker indicated that in the review of how other cities handle street lighting, the County has residential street light districts, not commercial street light districts. There is no collection made for street lights in commercial districts, those costs are covered by the County. One question that the Council may want to consider if they are interested is collecting the money for all costs related to street lighting. The budget was approved that way, but the Council may now be interested in looking at it differently. City Planner Riker wanted to know if maybe there was a consensus from the Council as to whether or not the commercial districts should be left out, or if there is another direction that the Council is interested in going with these assessment districts.

Council Member Anglin asked what formula is currently being used to collect money from citizens for these lighting costs. City Planner Riker indicated that costs for lighting are being paid out of the City's General Fund. Currently, the argument could be made by residents of Sterling on the Lake that they are currently paying for lights that they are not getting a benefit from. City Planner Riker stated that this came about because one subdivision wanted to know why they were paying for street lights, while another subdivision was not.

Council Member Yardley stated that public roads are roads that the City is charged with the upkeep on and the roads in Sterling are public roads. The private streets in Tidewater, Clarkstone and some other places are not in the previous ordinance. It would not be an equitable distribution if citizens on private streets pay their full share for their private roads and are then asked to pay a share towards the other street lights in the City. Council Member Yardley indicated that he had wanted to look at this issue as he felt there was an unfair distribution of tax dollars back to certain citizens. City Planner Riker clarified that defined subdivisions would pay for street lights that are clearly located in their subdivision. The total amount for the rest of the lights would be evenly distributed over all of the parcels in the City, including Sterling. Council Member Yardley stated that he wanted to make sure that charges for the street lights should be distributed fairly.

City Planner Riker verified with Council Member Yardley that what he is suggesting is that homeowners in the neighborhoods labeled Post Top 1 and Post Top 2 should pay the full amount for their lights and then also pay an amount towards the other street lights that are not in neighborhoods. City Attorney Bennett verified with Council Member Yardley that neighborhoods should be included in trying to figure out the amount to be paid for city wide street lights. Council Member Yardley feels that citizens should be paying for a portion of the city wide lights and also paying for the lights in their own neighborhood. This would work out to citizens paying an additional \$9.95 a month. Sterling is not included in this calculation because the \$55,000 paid annually by Sterling for street lights is not included. To figure this amount to include Sterling, the amounts included would be the \$35,000 and the \$55,000 for Sterling and divide that total amount by 2700 parcels. City Manager Andrew stated that this would work out to being about \$33.00.

City Planner Riker stated that if all of the parcels, including Sterling were counted, there could be a problem because in Sterling the street lights are paid for by the Homeowners Association (HOA) and there is no guarantee that the Association would lower the dues for

the homeowners if the street lights were to be paid for on the tax bills. Mayor Miller verified that homeowners in neighborhoods would pay their \$33.00 for lights in the neighborhood and an additional \$9.00 for other city lights. City Planner Riker stated that would only be the case if you included Sterling. Council Member Yardley indicated that on the map being used by City Planner Riker of the City, exclude Post Top 1 and Post Top 2 and then have all of the other parcels pay for the rest of the City street lights, with Sterling excluded.

City Manager Andrew questioned if the Council was interested in keeping the parcels on Atlanta Highway included in the calculations. City Manager Andrew clarified with Council Member Yardley that he is requesting to see a plan where Post Top 1 and Post Top 2 would cover their own costs the same as Sterling. Since Post Top 1 and Post Top 2 are also being suggested to cover a portion of the rest of the City cost, why is Sterling not being asked to do the same? Council Member Yardley stated that he was using the maps that were presented as being the street light districts, but if the district needs to be expanded to include Sterling, that would be fine.

City Planner Riker verified that the simplest map that was proposed is map 2 (Exhibit D) which lists all of the lights as public lights and they are paid for by the citizens that receive the benefit.

On the first proposal map (Exhibit B) City Planner Riker verified for Council Member Fetterman that the intent of the ordinance is to allow subdivisions to come in to a street lighting district. Council Member Fetterman is concerned that there is no guarantee that Homeowners Associations will give discounts on dues if the street lights are paid for on City tax bills. Council Member Fetterman stated that his HOA dues are partly funded by the developer and there has been a shortfall every year. The dues have either not gone down or stayed the same. Council Member Fetterman also feels that asking citizens that live on Atlanta Highway to pay \$210.00 additional on their tax bill is rather steep. Council Member Fetterman suggested that maybe the citizens on Atlanta Highway should pay no more than anyone else and that maybe the City should absorb some of the cost of the street lights on Atlanta Highway. Council Member Fetterman stated that he is not inclined to have the HOA's in this unless they want to be. Council Member Fetterman also feels that the citizens in Post Top 1 and Post Top 2 should not have to pay for lights in another area and that the citizens on Atlanta Highway should not have to absorb the full cost of the lights on that road.

City Planner Riker referred to page 2 of 4 of the ordinance which refers to proposed public streets and read it as follows:

(c) Proposed Public Streets: The owner, developer or other person developing a subdivision providing street light services shall be required to conform to all of the standards provided in Article 10 Section 1026 "Street Lights" of the City's adopted Subdivision and Land Development Ordinance.

City Planner Riker stated that what this means is that if you want to be in a street light district in the future, you have to buy down the cost of your lights from Georgia Power the day they are put in. City Planner Riker reminded the Council that this was the issue with Madison Creek as the developer never paid down the lights and so they were not getting the lower rate. This would also allow the Council to create separate districts in the future. City Planner Riker verified that Council Member Fetterman is looking at map 1 (Exhibit B) with the citizens on Atlanta Highway not being responsible for paying the full amount per parcel.

Council Member Yardley indicated that he was not talking about lowering the HOA dues in Sterling as the City would not be paying for the street lights in Sterling. This would mean that Sterling residents would only be paying an additional \$10.00 for the street lights in the other areas. City Planner Riker stated that everyone in the City right now is informally paying for City street lights with the exception of Madison Creek as they have a special assessment district. Madison Creek is an exception as they are paying twice due to their own actions.

Council Member Anglin felt that citizens in neighborhoods should be paying for street lights in their neighborhoods and for the lights on the well traveled roads as they are traveling on them. City Planner Riker verified that if a new neighborhood were to come in, the City could specify the street lights that are installed.

City Planner Riker verified for Council Member Fetterman that the amounts that would be paid by Madison Creek and Newberry Point would still be roughly the same amount for street lights as Madison Creek and the City are paying now.

City Planner Riker stated that the numbers that are presented do not include an administrative charge. The amounts charged would be on the tax bill, but there may need to be an administrative fee charged due to the cost for staff time. City Planner Riker verified that the charges for the street lights would not be to make a profit for the City, only to cover the actual costs incurred. City Attorney Bennett stated that the fees charged for street lights could cover the actual street light charges, administrative costs, and potential capital projects. More money can be charged than the actual cost, but not enough can be charged to make a profit. City Planner Riker stated that the rate charged for street lights could be set by resolution so that it could be adjusted each year based on the rates the City is being charged by Georgia Power.

Council Member Anglin verified that the neighborhoods in the City with HOA's. They are Madison Creek, Tidewater, Waterstone Crossing, Mulberry, Clarkstone Village and Sterling on the Lake. City Planner Riker stated that Tree Park Apartments were not included as they are one property.

Council Member Swafford stated that she is glad that the process of looking into street light charges started because she is against street lights in a specific neighborhood being a subsidy and being paid for by all citizens. Council Member Swafford is against creating a city side street light district as she feels that is a cost that the City should be paying for anyway with the property taxes that are already collected. Currently, the City is not having a problem paying for street lights in general, but if there is an issue paying for lights that are not affiliated with any one property then maybe the City needs to raise the millage rate instead of doing a separate assessment. Council Member Swafford then addressed the situation in Madison Creek. The neighborhood was paying double for their street lights due to their amortization schedule and there is a concern with other neighborhoods in a similar situation. If other HOA's approach the City with this same issue how would it be handled? The proposed ordinance does seem to address this, which is good as those concerns need to be addressed. Council Member Swafford also wanted to know if the City goes with a city wide assessment, what other administrative tasks will be done and who will do them, for example, maintenance of the street lights. Most issues would probably still be directed to Georgia Power, but would there be an additional burden of administrative work for the City? This

same issue is why the City delegated trash services to a trash company to make sure all trash complaints are directed to the trash company instead of the City. Council Member Swafford suggested creating a board run by these neighborhoods that do not have HOA's to handle administrative aspects.

After hearing Council comments, City Planner Riker indicated that he and City Manager Andrew have already discussed some of the issues presented with the street lights. Currently, when a street light is out, the City is notified and that information is forwarded to Georgia Power. City Manager Andrew has helped to make calls to Georgia Power more streamlined. Complaints are usually handled within 48 hours if they are sent to the correct person with Georgia Power. City Planner Riker acknowledged that the City will probably begin to get more calls if the charges for street lights are reflected on the City tax bills. City Planner Riker and City Manager Andrew verified that the street lights on Main Street are the only ones that are not maintained by Georgia Power, they are maintained by the City.

City Planner Riker clarified what the Council has requested. One map would isolate Post Top 1 and Post Top 2 and the other areas would all be included together. One scenario of that map would include the street lights on Atlanta Highway and one would not. A second map would show Post Top 1 and Post Top 2 and have the rest of the City, including Sterling, as a district. The council is requesting that this information be emailed to them so that it can be reviewed.

Council Member Swafford questioned what amounts were currently included in the budget in regards to paying for the street lights. City Planner Riker stated that the \$35,000 paid for street lights will be recovered. The funds for the City to pay for street lights were only budgeted until the end of October. City Manager Andrew informed the Council that if they desired to, the budget could be amended to pay for the street lights on Atlanta Highway for the rest of the year. City Planner Riker stated that if the Council wanted to identify Post Top 1 and Post Top 2 as defined neighborhoods and they were charged for street lights it would take about \$9,000 out of the amount needed to be paid by the City. That would leave about \$25,000 for the City to pay for and a budget amendment would need to be done. Council Member Swafford stated that she was not aware of the fact that the budget did not include money for street lights to be paid for after October 31.

Mayor Miller stated that he was concerned with the dates presented for the meetings regarding street lighting. In February of 2010, there was a rezoning application and an agreement was made that there would not be a second hearing and a vote on the rezoning. If citizens are expected to begin to pay for the street lights, it will be seen as a tax increase. The concern is that a special called meeting to have a public hearing and adopt a resolution on the same night could be seen by the public as pushing something through. Mayor Miller feels that this is a complicated issue and should be thoroughly researched prior to taking action and Council Member Fetterman agrees. Council Member Yardley feels that the special called meeting on September 29<sup>th</sup> should be eliminated and the public hearing should be held at the regularly scheduled Council meeting on October 6<sup>th</sup>. At the October 20<sup>th</sup> meeting, the map could then be adopted. Council Member Riker let the Council know that the tax bills would then go out at the beginning of November. City Attorney Bennett stated that the other option would be to amend the budget to include the costs for street lights. City Planner Riker stated that he could forward the maps and tables reflecting suggested changes to the Council, most likely on Monday of next week.

City Planner Riker verified that the Council is still interested in holding two public hearings regarding the street lights. The first hearing date is currently set for September 15<sup>th</sup>. The legal ad is required to be run for 15 days. To meet this deadline, the ad would need to be run before the ordinance could be adopted at the September 1 meeting. Council Member Yardley questioned the steps that would need to be taken. Both City Planner Riker and City Attorney Bennett verified that Ordinance 451 would have to be adopted before any further action could be taken. Council Member Fetterman verified with City Attorney Bennett that adopting Ordinance 451 will only empower the City or the public to create lighting districts. City Planner Riker and City Manager Andrew further suggested that Ordinance 451 could be adopted on September 1<sup>st</sup> and then there could also be a public hearing later that night. This would possibly allow for an additional public hearing.

Council Member Anglin wanted to know if there would definitely be an increase for everyone and City Planner Riker verified that there would be. Council Member Fetterman verified that the millage rate would stay the same, the street lights would be an additional assessment.

Council Member Anglin questioned why it was now being considered that the citizens pay for the street lights. In 2010, the City paid for those street lights and what has now changed. City Planner Riker stated that the Council was concerned based on the disparity due to Madison Creek. Council Member Yardley stated that increasing costs and declining revenue have combined to make the additional revenue necessary. The City reserves will soon be depleted. If the millage rate is increased, it could be increased every year as more revenue is needed. If lighting districts are created and listed as a separate item on the tax bill, the money will only be able to be used for that specific purpose.

Mayor Miller wanted to know how much would need to be pulled out of the reserves if the City decided to pay for the costs associated with the street lights. Council Member Fetterman stated that it would be about \$24,000 or 1/3 of the total amount as four months was to be paid for by the City. Council Member Swafford verified that \$9,000 is money that is currently being distributed for street lights in neighborhoods that are not being paid for by the homeowners. City Planner Riker stated that the full yearly amount would show up on the tax bills because if the charge were to be added, that amount would need to be paid to fund the street lights until the next tax bill a year later. Mayor Miller verified that the \$35,000 does include Madison Creek. Mayor Miller requested that City Planner Riker show the full amount due for this fiscal year after pulling out the amount for Madison Creek.

City Planner Riker verified the dates for the creation of street lighting districts as follows:

September 1, 2011	Second reading of Ordinance 451 (final adoption)
September 15, 2011	First public hearing regarding special assessment district map
October 6, 2011	Second public hearing
October 20, 2011	Adoption of Resolution establishing fees and charges for districts

❖ Consideration of Contract with Patrick Kelly Electric

This is a contract with Patrick Kelly Electric to install two electric tankless water heaters: one in the depot and one in the wastewater treatment plant. These are paid for by the Energy Efficiency Conservation Block Grant. This is the final item for this grant as completion of these items will use up 99.5% of the grant. Originally, the City had wanted to install five

new water heaters, but due to the cost as this is a “buy American” compliance grant, only two can be installed. Four bids were sent out and the bidders had to have a DUNS number and be able to comply with the Davis-Bacon wage rate. Only Patrick Kelly Electric met those requirements. The quote includes itemized numbers for installation of five new water heaters, but there were only enough funds for two of them. Due to water usage, past issues and on a recommendation from the Public Works Director, the water heaters for the depot and the wastewater treatment plant were the best candidates.

CITY MANAGER REPORT: None

CITY CLERK REPORT: City Clerk Burney indicated that she will be sending a letter out to a new business owner, who is also a property owner and is currently over \$3000 in arrears to the City of Flowery Branch for property taxes. His business license will not be issued until he pays for the property taxes. The applicant does have the right to request a hearing prior to revocation of the license so the letter being sent to the applicant will indicate that if a hearing is requested it will held in conjunction with the September 1<sup>st</sup> Council meeting.

CITY PLANNER REPORT: City Planner Riker reintroduced the stop signs proposed in Sterling on the Lake that was introduced at the previous Council meeting. There was some concern that stop signs at the amenities area were not needed. City Planner Riker went back to the City Engineer with that question and received the following response from Ron Osterlow with Pond and Company.

In accordance with the MUTCD (Manual for Uniform Traffic Control Devices) there are numerous different warrants for stop signs. However, engineering judgment should be used in application of these warrants. MUTCH states that stop signs should not be used as speed control devices. However, it does warrant stop signs if there are disproportionate speeds on the intersecting road that can cause safety issues which is the case in these applications. To fully utilize all stop sign warrants, it would be necessary to prepare and analyze all the historic accident data, perform a speed study, and prepare traffic counts. Based on my observations, this stop sign is necessary. The stop sign at Granite Court is marginally warranted and it would be well within the City’s and the Design Engineer’s prerogative to apply sound judgment in electing to install.

City Planner Riker stated that if additional studies were to be done, the cost for those would be \$2000. Mayor Miller and Council Member Anglin both felt that since the term “marginally” was used, the stop signs at the amenities area were not needed.

Council Member Yardley questioned the use of speed humps at the road to the amenities area. City Planner Riker stated that speed humps are expensive and they are also a maintenance problem. City Planner Riker verified with the developer that if the City did want to have a study done of the traffic that he would not be interested in sharing the cost of that study. City Attorney Bennett stated that there could be a potential problem later as there are letters in the record indicating that the City Engineer has told the City that the stop sign is needed. Council Member Fetterman questioned if a sign could be put coming out of the amenities area only and not making the intersection a three way stop. City Planner Riker verified that there is already a stop sign at that location.

Council Member Anglin questioned if stop signs could be put at Tree House Way instead. City Planner Riker stated that the developer wanted the stop signs for the area coming out of the

amenities area as there was some pedestrian traffic. The engineer for the developer and the City Engineer, Pond and Company, have both said that a stop sign is warranted in this area. Council Member Fetterman verified that the developer wants the stop signs installed due to speed concerns, but Council Member Fetterman pointed out that MUTCD indicates stop signs are not to be used as speed control devices. City Planner Riker pointed out that MUTCD does expand on that by saying to use judgment of an engineer. Council Member Yardley suggested we let the developer know that we are contemplating the stop signs for the amenities area and put in the signs for the four way stop and see if the problem is solved. Council Member Fetterman verified with City Planner Riker that if the signs were to be put up and then taken down because they were not needed, the stop bars would have to be blown off of the asphalt. As the paint does not come off completely, this could cause accidents with drivers interpreting the stop bar differently due to its faded appearance.

Council Member Swafford wanted to know why the City is even looking at these stop signs as an issue as they are located in Sterling. City Planner Riker verified that as they are City streets, they are the City's responsibility. In addition, the site plan has evolved due to the park area that was not part of the original concept.

Mayor Miller verified with the members of the Council that they were happy with Council Member Yardley's plan and City Planner Riker verified that he now had direction and would let the developer know.

CITY ATTORNEY REPORT: None

CITY COUNCIL REPORTS: None

ADJOURNMENT WORK SESSION

Mayor Miller closed the Work Session and opened the voting session at 8:17 p.m.



CITY OF FLOWERY BRANCH  
Council Meeting  
Voting Session  
Immediately following Work Session  
Thursday, August 18, 2011



OPEN VOTING SESSION:

Mayor Mike Miller opened the Voting Session at 8:17 p.m.

CONSENT AGENDA:

Consider – Second reading of Ordinance 445-A regarding Absentee Ballot Clerks for the General Election.

Consider – Draft meeting minutes from August 4, 2011

In addition, Council Members decided to move the following items to the consent agenda:

Consider – Contract with Patrick Kelly Electric for installation of two tankless water heaters

Consider – Proposed Amendment to Red Oak Contract

**Motion: Kris Yardley**

**Second: Chris Fetterman**

Discussion: None

**Unanimous**

UNFINISHED BUSINESS:

Consider – Second reading of Ordinance 348-13 which would modify portions of Article 2, “Definitions and Interpretations”, Article 3. “Establishment of Districts and Official Zoning Map”, Article 9, “Nonresidential Zoning Districts”, Article 16, “Adult Businesses”, Article 21, “Parking”, Article 23, Outdoor Lighting”, and Article 24, “Signs”.

**Motion to waive the reading of Ordinance 348-13: Kris Yardley**

**Second: Chris Fetterman**

Discussion: None

**Unanimous**

**Motion to approve the second reading of Ordinance 348-13: Kris Yardley**

**Second: Joe Anglin**

Discussion: None

**Unanimous**

NEW BUSINESS:

Consider. – First reading of Ordinance 450 which is an amendment to Chapter 5 of Adult Entertainment Section 5-11 location restrictions relating to note A (1) manufacturing and industrial zoning districts; repealing conflicting ordinances and for other lawful purposes.

**Motion: Joe Anglin**

**Second: Kris Yardley**

Discussion: None  
**Unanimous**

Consider – First reading of Ordinance 451 which is an ordinance to create street lighting special assessment districts within the City of Flowery Branch; to establish standards and district types; to provide for payment and collection of costs; to establish procedures for creating districts; to provide for severability; to provide for codification; to provide for an effective date; to repeal conflicting ordinances and for all other lawful purposes.

**Motion: Chris Fetterman**  
**Second: Amanda Swafford**  
Discussion: None  
**Unanimous**

City Attorney Bennett indicated that pending/potential litigation would need to be discussed in an Executive Session.

Council Member Fetterman made a motion at 8:21 to enter to Executive Session to discuss pending/potential litigation.

**Motion: Chris Fetterman**  
**Second: Joe Anglin**  
Discussion: None  
**Unanimous**

EXECUTIVE SESSION:

- \_\_\_\_\_ Land Acquisition
- \_\_\_\_\_ Personnel Matters
- Pending/Potential Litigation

There was a motion to exit the Executive Session and resume the Voting Session at 9:27 p.m.

**Motion: Chris Fetterman**  
**Second: Joe Anglin**  
Discussion: None  
**Unanimous**

There was a motion made by Council Member Fetterman to exit the voting session at 9:27 p.m.

**Motion: Chris Fetterman**  
**Second: Kris Yardley**  
Discussion: None  
**Unanimous**

Adjournment:

  
James "Mike" Miller - Mayor

9-1-11  
Dated

  
Marja Burney - City Clerk



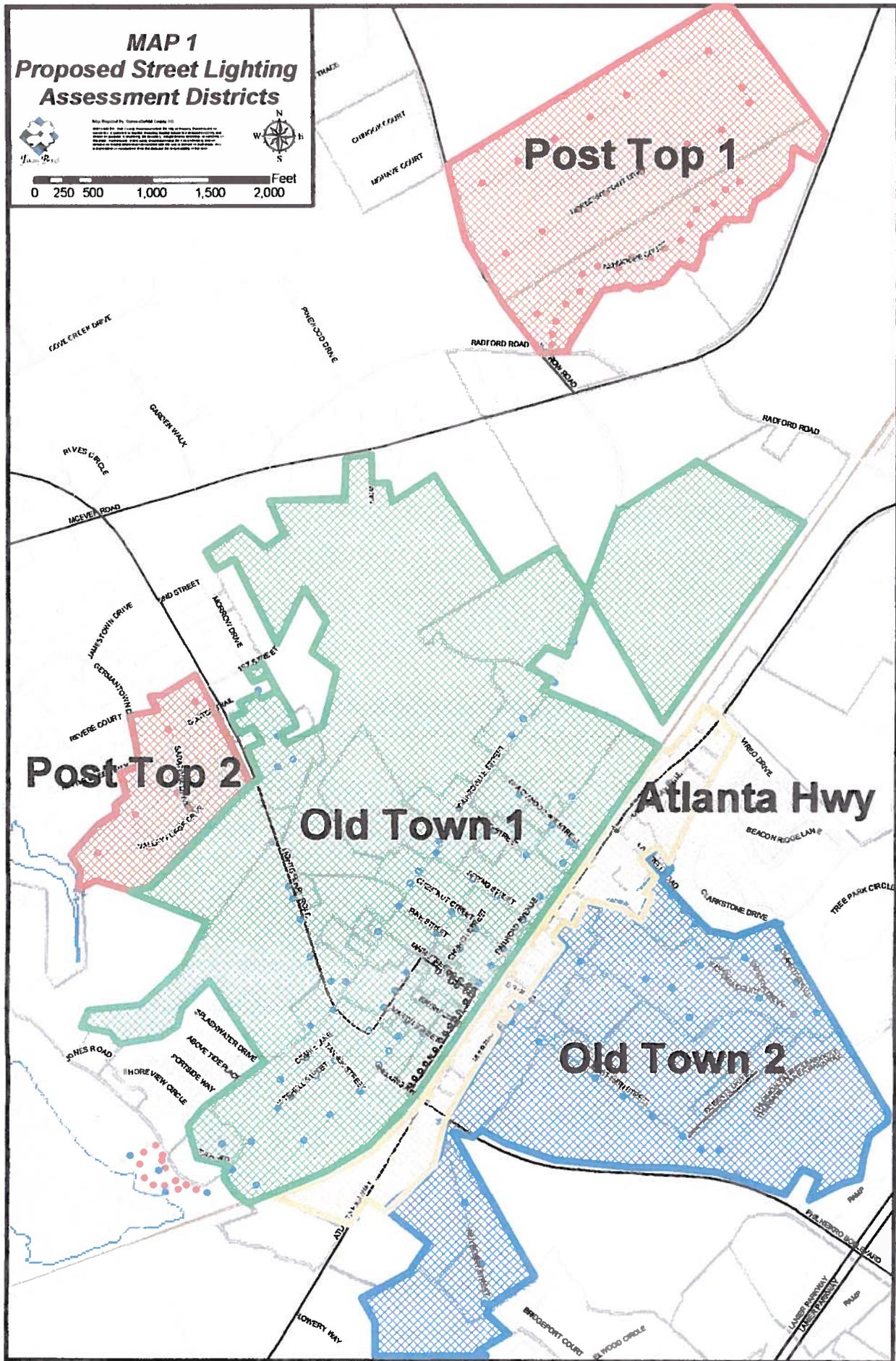
**MAP 1**  
**Proposed Street Lighting**  
**Assessment Districts**



Map prepared by: [unreadable]  
 Date: [unreadable]  
 Scale: [unreadable]



0 250 500 1,000 1,500 2,000 Feet



# MAP 1

District	Qty	Unit \$	Monthly \$	Annual \$	# of Parcels	\$ per Parcel
Post Top 1	36	\$ 16.17	\$ 582.12	\$ 6,985.44	207	\$ 33.75
Post Top 2	10	\$ 16.17	\$ 161.70	\$ 1,940.40	67	\$ 28.96
Old Town 1	70	\$ 10.26	\$ 718.20	\$ 8,618.40		
	4	\$ 17.95	\$ 71.80	\$ 861.60		
				\$ 9,480.00	251	\$ 37.77
Old Town 2	31	\$ 10.26	\$ 318.06	\$ 3,816.72		
	5	\$ 24.91	\$ 124.55	\$ 1,494.60		
	1	\$ 31.61	\$ 31.61	\$ 379.32		
	2	\$ 16.17	\$ 32.34	\$ 388.08		
	23	\$ 11.96	\$ 275.08	\$ 3,300.96		
				\$ 9,379.68	132	\$ 71.06
Atlanta Hwy	18	\$ 31.61	\$ 568.98	\$ 6,827.76		
	3	\$ 10.26	\$ 30.78	\$ 369.36		
	2	\$ 24.91	\$ 49.82	\$ 597.84		
	1	\$ 17.95	\$ 17.95	\$ 215.40		
				\$ 8,010.36	39	\$ 205.39
				\$ 35,795.88	696	



# MAP 2

District	Qty	Unit \$	Monthly \$	Annual \$	# of Parcels	\$ per Parcel
	36	\$ 16.17	\$ 582.12	\$ 6,985.44	207	
	10	\$ 16.17	\$ 161.70	\$ 1,940.40	67	
	70	\$ 10.26	\$ 718.20	\$ 8,618.40		
	4	\$ 17.95	\$ 71.80	\$ 861.60		
				\$ 9,480.00	251	
	31	\$ 10.26	\$ 318.06	\$ 3,816.72		
	5	\$ 24.91	\$ 124.55	\$ 1,494.60		
	1	\$ 31.61	\$ 31.61	\$ 379.32		
	2	\$ 16.17	\$ 32.34	\$ 388.08		
	23	\$ 11.96	\$ 275.08	\$ 3,300.96		
				\$ 9,379.68	132	
	18	\$ 31.61	\$ 568.98	\$ 6,827.76		
	3	\$ 10.26	\$ 30.78	\$ 369.36		
	2	\$ 24.91	\$ 49.82	\$ 597.84		
	1	\$ 17.95	\$ 17.95	\$ 215.40		
				\$ 8,010.36	39	
				\$ 35,795.88	696	\$ 51.43