



CITY OF FLOWERY BRANCH
Work Session
Thursday, December 1, 2011 6:00 pm.



CALL TO ORDER: Mayor Mike Miller called the meeting to order at 6:04 p.m.

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

ABSENT: None

PLEDGE OF ALLEGIANCE: Mayor Mike Miller led the pledge of allegiance

UNFINISHED BUSINESS:

❖ Hearing regarding business license for Flowery Branch Auction and Antiques
Mayor Miller verified that no member of the audience was present in regards to this hearing. City Manager Andrew requested that this hearing be postponed until after the Council Executive Session. The Council agreed to postpone this hearing until after the Executive Session.

PUBLIC COMMENTS:

Mr. Greg Lyons of 601 Tree Park Circle approached to speak regarding water meter issues at Tree Park Apartments. Mr. Lyons indicated that the residents of the apartments would like to request that individual water meters be read for the individual units so that the residents would only be paying for water that they actually used. The residents are currently paying for the water usage in common areas and do not have an opportunity to conserve water. The residents feel that the water being used in the common areas of the complex should be paid for by the recent rent increases. Mr. Lyons indicated that most of the Tree Park residents were told that the water bill would be divided among the residents evenly. The manager informed Mr. Lyons and another resident when they rented their apartments that the apartment complex was trying to get the City to come out and read the meters. In speaking with other residents, Mr. Lyons has discovered discrepancies in the amounts residents are being charged. The residents feel that they were misled by property management. Mr. Lyons has a petition that contains 120 signatures regarding this issue. The residents have tried to speak with the property managers and the residents are not getting a response from property management. Mr. Lyons feels that there are unfair and discriminatory practices at Tree Park Apartments in regards to the water billing. Mr. Lyons is requesting that the City look into this problem.

Mr. Eric Jackson of 2705 Tree Park Circle also approached to speak regarding water meter issues at Tree Park Apartments. Mr. Jackson's understanding is that Tree Park has one master meter for the water, which is paid for by the management company and then the residents are billed individually by a third party. Mr. Jackson indicated that Argent, which is used to manage Tree Park apartments, billed him for 2350 gallons which was \$16.00. Another month he used 1100 and was charged \$21.10. There is a lack of clarity in the billing from Argent. When less water was used, the bill was higher.

Ms. Patty Phillips, the owner of Calliope Sweets at 5511 Main Street, approached regarding the Christmas Tree Auction. There are 14 trees in the Depot available for auction and there are

about 35 gift baskets to be auctioned also. All of the money raised will be going to the Shop with a Cop program that is run by the City of Flowery Branch Police Department. Ms. Phillips stated that the City and its' employees have been very helpful regarding this event. Ms. Phillips further stated that the Depot would be open after Executive Session for the Council to come and view the items for bid.

Ms. Elsie Carpenter signed up to speak and crossed her name off as she was no longer interested in speaking. Mr. Lyons requested to have her time to speak again and Mayor Miller stated that Mr. Lyons could speak again after everyone else signed up for public comment had spoken.

Mr. James Larry Cox of 1001 Tree Park Circle approached to ask the members of the Council to treat the residents of Tree Park fairly. The rent at the apartments is on five different scales and there is no continuity to the water billing. Mr. Cox and his wife are both retired and their water bill has remained the same every month, there has been no fluctuation. The management office would not take his phone call when he tried to call them and ask a question. Mr. Cox is requesting the City to come out and read the meters individually.

Ms. Patty Mooney Spencer of 6051 Wade Road approached to speak to the City regarding the property that her family sold to the City. The property was formerly Mooney Manufacturing Company and was sold to the City a year ago. Part of the negotiation for the purchase of the property was that a memorial was to be placed on the property. As the City is not going to be doing anything with the property for a while, Ms. Spencer wanted to see if there was the possibility of a temporary memorial that could be placed on the property.

Mr. Kevin Harnes of 2618 Tree Park Circle approached to speak about the water meters at Tree Park apartments. Mr. Harnes wanted to know how Argent became involved in the billing for the apartments. City Manager Andrew stated that it was his understanding that Argent does the utility billing for all of the Wilwat properties. Mr. Harnes has a problem with the fact that Wilwat properties is using the water billing as a source of income. Mr. Harnes feels that the water belongs to the City and the residents are concerned with paying too much for their water.

Mr. Greg Lyons approached to speak again regarding the Tree Park Apartments water situation. Mr. Lyons stated that Ms. Lydia Smith, an elderly resident of Tree Park, had asked Mr. Lyons to be sure that her email regarding this situation was heard by the Council. Mr. Lyons indicated that he had already forwarded the email to the Council, but indicated that he would read it for the record. Ms. Smith's letter reads as follows:

I have lived at Tree Park for 2 years and I am moving out in the middle of December because my rent was raised and the cost of maintaining my own apartment has become too much on one income. I have enjoyed living here but just cannot see the point of spending all I make to live here for what we get in return. The cost of water and sewer and common lights is just way too much, almost 60 dollars a month. I am one person living here and do not use an excess amount of water. I have used the dishwasher twice in the whole time I have lived here. I believe that individual meters reading is what should be in place for all residents here at Tree Park. I fully support individual meters for the water usage. Please take my letter and all others that you have received and act accordingly so that we are not charged right out of our homes.

Mr. Lyons indicated that he had other letters, but could not find them at this time. Mr. Lyons

feels that he does not have a home at Tree Park and feels that he could move out at any time.

Mr. Ed Lezaj approached indicating that he wanted to ask a question. Mr. Lezaj indicated that he was hoping to see a new Council member as one was elected. Mr. Gibbs, who was in the audience, was pointed out to Mr. Lezaj. Mr. Lezaj stated that after all of the discourse on the Council it did not make sense to him that the new Council Member was not sworn in immediately so that a deadlock on the Council could be avoided. Mayor Miller informed Mr. Lezaj that he was talking about 2 different elections. The election that was just held was for Posts 1 and 2, which was held in the normal election cycle. The persons holding Post 1 and 2 serve on the Council until December 31st. The persons that were elected for Posts 1 and 2 will be seated on January 1st on the Council. Post 3, which was held by Mr. Yardley, will be up for election on March 6, 2012 as a Special Election. Mayor Miller indicated that three people qualified for that seat, and one of them, Mr. Covert, was pointed out in the audience.

DRAFT MINUTES: City Clerk Burney presented the draft minutes from the November 3, 2011 City Council Meeting. There was not a meeting on November 17, 2011 due to lack of business, so the November 3, 2011 minutes are the most recent minutes. Council Member Swafford stated that she had one change on page 2, the second paragraph. The requested change is that Chairman Tom Oliver is mentioned, but the minutes do not indicate that he is the Chairman of Hall County. City Clerk Burney indicated that this change will be incorporated in the final version of the minutes.

NEW BUSINESS:

- ❖ Application of EEZ Bistro for an alcohol license to sell beer and wine at 5911 Spout Springs Road, Suite B

City Clerk Burney indicated that this is a new restaurant seeking an alcohol license for beer and wine only. Currently, all that is missing is fingerprint results for one of the listed owners. City Clerk Burney indicated that the owner will be going to have the fingerprints done within the next few days. The request is to have this application approved pending the return of favorable fingerprint results. City Attorney Bennett indicated that applications for alcohol have been approved before pending the return of favorable fingerprint results.

- ❖ 1st reading of Ordinance 461 – Water Conservation Separate and Master Meter Ordinance and Ordinance 462 – Water Conservation Car Wash Ordinance

City Planner Riker indicated that these ordinances are housekeeping matters. The City is part of the Metropolitan North Georgia Water Planning District and as a member of that district there are requirements that the City has to abide by. The City was to have adopted some ordinances relating to conservation. A recent audit by Georgia EPD revealed that two of the required ordinances had not been adopted and they need to be adopted prior to 2012. One ordinance relates to conveyor car washes and that 50% of their water be recycled and the other ordinance is to provide individual meters for all dwelling units. There was already an ordinance that addressed the individual meters, but there were some changes that needed to be made to the language to comply with the Planning District requirements.

Ordinance 461 does require individual meters, but there is no requirement for municipalities to read individual meters. City Planner Riker had received information from Mr. Bob Troxler, former Public Works Director from Gwinnett County, which indicated that most local governments in Georgia do not read individual sub-meters, that is left to the property owner.

Council Member Fetterman verified with City Planner Riker that these requirements would only be for meters going forward. Council Member Fetterman then asked if it would be possible to put into the ordinance that the property would have to meet those requirements if the property were to be sold to a new owner. City Attorney Bennett indicated that the two largest master meter customers in the City are Tree Park and Trail West. City Planner Riker indicated that he could look into those possible requirements. Council Member Richards verified that the City does read the sub-meters at Trail West as there is an agreement with the property owners. City Attorney Bennett indicated that it was done that way as Trail West is a trailer park and each trailer is on an individual lot. City Planner Riker indicated that there would be the possibility that the City could not bill people for the meters to bring the properties into compliance as that might be considered an illegal impact fee. Council Member Fetterman stated that it was a bad thought and there would be no need to look into it further.

Council Member Swafford verified that the apartments at Tree Park do have individual meters, but that they are not billed individually.

❖ Easement agreement with the U.S. Army Corps of Engineers relating to Cinnamon Cove Treatment Plant

City Planner Riker stated that Cinnamon Cove Plant will be taken off line over time. There is a discharge line from the plant to Lake Lanier. That line is located in an easement from the Army Corps of Engineers to Cinnamon Cove. Since the City owns the plant, the Corps is requesting that the easement be transferred from the Cinnamon Cove name to the City of Flowery Branch name. The newspaper had stated that the City was giving an easement to the Corps, which is not accurate.

CITY CLERK REPORT: None

CITY PLANNER REPORT:

❖ Update of EECEBG grant

City Planner Riker stated that the City had a GEFA grant for Energy conservation measures at the treatment plant. The grant was originally money that came from the Federal Government and was given to the State where it was then passed to different municipalities. Some of the money has not been spent. Municipalities that spent their allotment were asked if they would be interested in reapplying for additional funds for other energy projects. There is no monetary match that has to be provided to receive this grant. The application for the grant was due during a time when the Council did not have a meeting, so the application has already been submitted. City Planner Riker stated that \$57,000 was applied for and that amount would replace all of the HVAC units in the City that were obsolete and to complete installation of electric tankless water heaters. The hope was to replace five water heaters with the last grant effort, but there was not enough money available for all five, so only two were replaced.

City Planner Riker stated that he is looking for input from the Council on the application for this grant. Council Member Swafford asked if there were problems with the sites for the two water heaters that were replaced. City Planner Riker stated that there were some issues with the electrical systems and the locations. The \$7000 that was left from the previous grant was used for the water heaters at the encouragement of the State as they wanted to see the City of Flowery Branch use all of the grant money that was awarded. The original grant was for upgrades at the treatment plant, new compact fluorescent lighting at City Hall and occupancy sensors at the Administration building. The original grant was for \$205,000. There have been substantial reductions in energy usage where the upgrades were made. City Planner Riker stated the grant

applied for would enable the installation of superefficient units at the Police Department, the Depot, City Hall, the Administration Building and at the Wastewater Treatment Building. The newer units would also require less maintenance.

CITY ATTORNEY REPORT: None

CITY MANAGER REPORT: None

CITY COUNCIL REPORTS:

Council Member Swafford stated that the Christmas Tree Lighting will be on Friday, December 2nd. There will be several activities taking place on Saturday, December 3rd in conjunction with the parade in downtown. For more information, there has been a website set up and it is flowerybranch.info. Pre-registration forms are available as the organizers are trying to get as many children pre-registered as possible. Everyone under the age of sixteen that is riding a bike will be required to wear a helmet. Flowery Branch United Methodist Church will be providing free decorations. Almost everything for this event is free of charge.

Council Member Fetterman recognized Mr. Damon Gibbs, future City Council Member and congratulated him on his election to the Council. In relation to the Tree Park Apartments situation, Council Member Fetterman indicated that he was not sure what the City Council would be able to do for the residents. City Manager Andrew is willing to act as a mediator. Council Member Fetterman stated that he does not feel that it is the government's job to force a private company to do something. The City would be willing to read the meters at Tree Park. The City will do its best to help facilitate this situation.

Council Member Anglin stated that he is in agreement with the way City Manager Andrew has agreed to act as a mediator. There appear to be inequities, but Council Member Anglin agrees with Council Member Fetterman that the problem at Tree Park is a private issue.

Mayor Miller recognized Mr. Eric Jackson who wanted to know if the request to have the meters privately read would have to come from the management of the Tree Park apartments. City Manager Andrew stated that since the apartments are located on private property, the City would have to have an easement granted to come on the property to read the meters. Mr. Greg Lyons stated that his understanding that the management of Tree Park would be happy to have the City come out and read the meters.

Council Member Richards had no report.

Mayor Miller stated that the tree lighting tomorrow night, December 2nd is at 6:00 pm. Freddie the Falcon will be lighting the Christmas tree and some Falcons cheerleaders will also be in attendance. Covenant Connections Church will have a choir and band present singing carols. There will be a golf themed Christmas tree in the auction that will have over \$1000 of golf items on it. Mayor Miller requested the residents of Tree Park keep him informed about developments in this situation. The management company, Wilwat, has a right to choose whatever company they wish to be their contractor for the utility billing. That is not something that the government regulates and would be overstepping the grounds of what government is allowed to do.

ADJOURNMENT WORK SESSION

Mayor Miller closed the Work Session and opened the voting session at 6:52 p.m.



**CITY OF FLOWERY BRANCH
Council Meeting
Voting Session
Immediately following Work Session
Thursday, December 1, 2011**



OPEN VOTING SESSION:

Mayor Mike Miller opened the Voting Session at 6:52 p.m.

CONSENT AGENDA:

Consider – Draft meeting minutes from November 3, 2011

Motion: Joe Anglin

Second: Tara Richards

Discussion: None

Unanimous

NEW BUSINESS:

- ❖ Consider – Application for EEZ Bistro for an alcohol license to sell beer and wine at 5911 Spout Springs Road, Suite B

Council Member Fetterman made a motion to approve the application for EEZ Bistro for an alcohol license to sell beer and wine pending the return of the fingerprint check.

Motion: Chris Fetterman

Second: Joe Anglin

Discussion: None

Unanimous

- ❖ Consider – First reading of Ordinance 461 – An ordinance to amend Chapter 50 Utilities Sections 50-17 and 50-18 of the adopted Municipal Code relating to separate meter and master meter requirements; repealing conflicting ordinances and for other lawful purposes.

Motion: Joe Anglin

Second: Tara Richards

Discussion: None

Unanimous

- ❖ Consider – First reading of Ordinance 462 – An ordinance requiring new commercial conveyor car washes to install recycled water systems; to provide for codification; to provide for an effective date; to repeal conflicting ordinances and for all other lawful purposes.

Motion: Joe Anglin

Second: Chris Fetterman

Discussion: None

Unanimous

- ❖ Consider – Easement agreement with the U.S. Army Corps of Engineers relating to Cinnamon Cove Treatment Plant

City Attorney Bennett indicated that he has reviewed the agreement and it changes the assignment of the easement from Cinnamon Cove Homeowners Association to the City of Flowery Branch

Motion: Chris Fetterman

Second: Amanda Swafford

Discussion: None

Unanimous

There was a motion made by Council Member Fetterman at 6:56 p.m. to go into Executive Session for the purpose of land acquisition and pending/potential litigation.

Second: Joe Anglin

Discussion: None

Unanimous

EXECUTIVE SESSION:

- Land Acquisition
- ~~Personnel Matters~~
- Pending/Potential Litigation

There was a motion made by Council Member Fetterman to exit the Executive Session and resume the Voting Session at 7:52 p.m.

Second: Joe Anglin

Discussion: None

Unanimous

City Manager Andrew gave an update on the Randy Carlyle property. He stated that the City is in the process of having Chief Lanich named as the person that can sign papers for Mr. Carlyle. This will facilitate the City in having the current home removed and replaced with a grant from the Department of Community Affairs. According to City Attorney Ron Bennett, having the property in Mr. Carlyle's name will allow him to have access to the grant money. Removing the current home and building another one will eliminate a nuisance property and a risk to public health.

UNFINISHED BUSINESS:

- ❖ Hearing regarding business license for Flowery Branch Auction and Antiques

Council Member Anglin made a motion to postpone this hearing to the December 15 City Council Meeting.

Motion: Joe Anglin

Second: Tara Richards

Discussion: None

Unanimous

Council Member Fetterman made a motion to adjourn the meeting at 8:01 p.m.

Motion: Chris Fetterman

Second: Joe Anglin

Discussion: None

Unanimous

Adjournment:


James "Mike" Miller - Mayor

12-15-11
Dated


Marja Burney - City Clerk