



CITY OF FLOWERY BRANCH
Council Meeting Minutes
Work Session
Thursday February 18, 2010
6:00 pm



CALL TO ORDER:

Mayor Hirling called the meeting to order at 6:03 p.m.

IN ATTENDANCE:

Mayor Diane Hirling and Council Members Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards. Also in attendance were City Manager Bill Andrew, City Clerk Melissa McCain, City Planner James Riker and City Attorney Ron Bennett.

PUBLIC COMMENTS: -

Pat Olsen – 6650 Lake Run Drive, Flowery Branch Ga.

Ms. Olsen approached the Council and advised that she was representing the Lake Run on Lanier Homeowners Association as well as the civic club, the Homemakers Club.

Ms. Olsen advised that she is concerned with what will eventually be constructed on the site in question and expressed concerns pertaining to the kids in the area and their well being depending on what is built at that location.

Ms. Olsen advised that the residents that she represents are also concerned with property values and quality of life in their community.

Ms. Olsen requested that the vote be postponed for two weeks as the people she was representing requested more time to review the proposal and make suggestions.

Ms. Olsen stated that Hall County Representative Bobby Banks at 7:52 pm on February 2nd stated that Hall County had said neither yeah or nay on the issue and by February 4th the Hall County Board of Commission had given its blessing. That was a quick decision as was the council voting process, even though moments before council members expressed empathy and understanding and wiliness to attending meetings for further discussion. On February 4th this council ignored the residents in favor of an out of state developer. We ask that you delay your decision for two weeks to give more time to review the requests with the residents.

Joe Cumbie – 6576 Johnson Circle, Flowery Branch, Ga. 30542

Mr. Cumbie submitted a letter to the Clerk for the record.

Mr. Cumbie advised the letter was his statement and he reviewed same. (Attached)

Tom O'Shea – 6405 Arbor Wood Drive, Flowery Branch, Ga. 30542

Mr. O'Shea advised that he was on the board for the Lock Arbor Homeowners Association and advised that he had the same concerns as the prior speakers regarding the M-1 zoning. There are no objections to the annexations just concerns about the zoning.

Kim James – 6700 Williamsport Drive, Flowery Branch, Ga. 30542

Ms. James advised that she strongly opposed any of this property being zoned M-1. Ms. James further stated that she did not understand why the City would make an island of manufacturing in the middle of a residential area.

Terry Neeley, 650 Gregory Manor, Smyrna, Ga. /6233 Bell Drive, Flowery Branch, Ga.

Mr. Neeley stated that he and his wife were scheduled to close on the home at 6233 Bell Drive and is concerned about what could or will be built at this location.

Mr. Neeley advised that they may consider not purchasing the house if the property is allowed to be zoned manufacturing.

Ricki Lee Hagen – 6455 Wildwood, Flowery Branch, Ga. 30542

Mr. Hagen felt that this issue came up fast and a lot of people do not know what is going on and those that do are not happy. Mr. Hagen advised that it is about quality of life. Further it is we the people that you represent and not just one individual. The annexation is not a concern it is the M-1 designation. Please consider our quality of life.

Stan Fyfe – 6501 Paradise Point, Flowery Branch, Ga. 30542

Mr. Fyfe advised that he was concerned about the M-1 zoning. Another big concern is site ready designation of a property. If it will look like Friendship Road that is ugly and not wanted in Flowery Branch.

Mike Baker – 6221 Bell Drive, Flowery Branch, Ga. 30542

Mr. Baker advised that he would like to repeat his sentiments as stated at the last meeting. He would hope the Council votes against the proposed zoning designation and requested the council zone it residential. Further, Mr. Baker inquired if it were to change zoning would there be any legal protection for the residents and if the conditions follow to other owners if the property is sold.

UNFINISHED:

Discussion - Annexation and Rezoning of three properties located at McEver Road and Gaines Ferry Road Flowery Branch.

- Ordinance 426 – Annexation 6401 McEver Road
- Ordinance 427 – Rezoning of 6401 McEver Road
- Ordinance 428 – Annexation of 0 McEver Road
- Ordinance 429 – Rezoning of 0 McEver Road
- Ordinance 430 – Rezoning of 6353 McEver Road

Councilman Lutz requested that Planner Riker review the prohibited items in the M-1 zoned area.

Planner Riker advised that the following uses would be prohibited, Adult Business, Agricultural Processing, Aircraft Landing Area, Animal Hospital or Veterinary Clinic, Animal Rendering (including slaughtering and recycling plant), Art Gallery, Asphalt Plant, Automobile Sales and Service Establishments, Automobile Sales without Service, Bank or Financial Institution, Batching Plant, Bed and Breakfast Inn, Borrow Site, Botanical Garden, Bottling or Canning Plant, Bulk Storage, Camp or Campground, Carnival, Church (including temple, synagogue, or place of worship), Cemetery as an Accessory Use, Clinic, Club or Lodge, Private Club, Composting Facility, Continuing Care Retirement Community, Dwelling, extraction of Sand/Gravel/Top Soil, Finance/Insurance or Real Estate Establishment over 2500 sq ft, A food Processing Plant, Group Home, Hazard Waste Receiving Facility, Incinerator, Institutional Residential Living, Junk Yard, Salvage Yard, Landfill, Lodging Service, Manufactured Home, Marina, Material Recover Facility, Mixed Use Building, Modular Home, Petroleum Bulk Storage, Power Plant, Rail Yard, Railroad Freight Terminal, Recreational Vehicle Park, Recovered Materials Processing Facility, Retreat Center, Rooming or Boarding House, Sawmill, School for the Arts, School (private, elementary, middle or high), School (public), School (professional), Slaughterhouse, Solid Waste Handling and/or Transfer Facility, Special Event Facility, Taxi Cab and Limousine Service, Truck Stop or terminal, Water Plant or Wastewater treatment Facility, Wrecked Motor Vehicle Compound.

Councilman Lutz inquired on how a light industrial zoning designation from the County would compare to the zoning and exemptions the City is proposing.

Planner Riker advised that the County designations of light industrial do allow some of the uses that the City of Flowery Branch is proposing as a prohibited use.

Planner Riker further stated that it should be noted that when the City notified Hall County they indicated that the City had proposed uses that were allowed in their zoning designation and that the proposal did fall within Hall County's Comprehensive Plan.

Councilman Kris Yardley inquired if a land disturbance permit was required to be issued prior to construction beginning and what was the time frame that the work needed to commence once a permit is issued.

Planner Riker advised that a permit did need to be issued prior to construction and that the permit would need to be acted on within 120 days of issuance.

The City has the ability to extend this depending on the development as some need more time, such as the case with Stonebridge Village.

Councilman Yardley inquired if there would be the ability to change any of the buffer requirements along the streams that run through the property.

Planner Riker advised that a minimum setback requirement as set by the State is 25 ft. The City has a 50 ft set back undisturbed and then an additional 25 ft of non- impervious surface. There is a variance process if they wanted to encroach in the City buffer but the applicant would need to go before the EPD to request a variance from the State minimum setback requirements.

Councilman Yardley inquired if the stipulations in the ordinance were set and did not change if the property was transfer or sold to a different owner.

Planner Riker advised that the stipulations stay with the property not the owner.

Councilman Fetterman stated that the City has prohibited the following uses that the County currently allows on the property in question; Adult Establishments asphalt Plants, Junk Yard, and Truck Terminals.

Planner Riker reviewed items that are permitted by the Hall County Zoning Ordinance;

- Any industry which does not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, fire hazards or other objectionable conditions. Specifically excluded uses are acid manufacture, fertilizer manufacture, animal reduction, rendering plants and other industries that are found to be obnoxious by the planning commission.
- Any retail or retail service establishments.
- Automobile repair garages.
- Bus stations.
- Churches.
- Drive-in theaters
- Hotels, motels or tourist courts.
- Industrial parks.
- Junk yards with site plan approval by the planning commission.
- Laboratories.
- County uses.
- Offices and office buildings.
- Planned unit developments on a minimum of ten acres.
- Radio and television studios.
- Service stations
- Storage yards.
- Truck terminals.
- Wholesaling and warehousing.
- Subdivisions.
- Family day care home.
- Group day care home.

- Construction trailer
- Adult establishments.
- Astrologers, clairvoyants, fortune tellers, palmists, phrenologists and related occupations to the list of occupations licensed by the board of commissioners in the Light Industrial District

Uses permitted subject to approval of planning commission;

- Asphalt emulsion
- Municipal, state and other public uses.
- Animal hospitals or veterinary clinics with exercise yards but no outside pens or runways.
- Commercial kennels with exercise yards but no outside pens or runways.

Conditional uses subject to zoning board of adjustment approval;

- Additional parking on other than principal lot.
- Caretaker and/or employee residences.

Uses permitted subject to approval of county commission.

- Slow rate land treatment systems.
- Private directional signs for churches (defined under section 17.270.030) up to 36 square feet in area.
- Re-establishment of a nonconforming use after a period of two years.
- Day care center.
- Telecommunications
- Food processing plants involving the processing of vegetative products which would not be subject to section 17.170.020, number 30
- Food processing plants involving animals or animal by-products

Councilman Fetterman requested that auction house or auction yard be removed when relating to livestock, logging yards, towing services, gas tank sales and crematory only when operated in conjunction with a mortuary or funeral home.

Councilman Miller requested that explosive storage be removed from the list of permitted uses.

Councilman Yardley asked that other uses be reconsidered for the M-1 property designation such as bank/finance and insurance companies over 2500 sq ft, churches, bottling or canning Plants on a conditional use, school for the arts or botanical gardens as these uses may not be an unsightly use at this location.

Councilman Lutz stated that at the last meeting he did ask to postpone this issue for two weeks to try and address all the issues proposed by the public and this week he would not be asking to postpone as he felt all the issues have been addressed.

NEW BUSINESS:

[Discussion - Public Hearing Meeting Minutes February 4, 2010](#)

Clerk McCain advised there were a couple typographical errors that were corrected but no content change.

Discussion - Meeting Minutes February 4, 2010

Clerk McCain advised there were no changes.

Discussion – Beer License application for Petrofast – 5512 McEver Road

Clerk McCain advised that the Applicant, Petrofast Food Stores, has purchased the property at 5512 McEver Road and would like to reopen this gas station for business. Petrofast currently owns another property in Flowery Branch located at 4841 Hog Mountain Road with a beer license that has been in effect since 2003.

Continuing, Clerk McCain stated that the applicant has had only one issue that dates back to 2005 at the Winder Hwy location for a sale to a minor which resulted in a 15 day suspension of sales. The responsible party for the underage sale was not the applicant but an employee.

Clerk McCain stated that because the applicant has a current license and has been fingerprinted staff requests that a -background check be completed and the requirement for fingerprinting be waived contingent on a “no record” report being returned on the background check.

Discussion – Contract Cybergov Consultants for Utility Rate Study

City Manager Andrew reviewed the contract and advised that the study would be completed and returned to the City by April 12th for review at the Council Meeting on the 19th.

It was noted that this would be reviewed prior to the review of the budget.

Councilman Lutz requested the rates be figured with and without the \$1.00 charge that the City of Gainesville is proposing to charge in the future.

Discussion – Ordinance 431 – Municode adoption

Clerk McCain stated that after many hours of review she was proud to present a finished product.

The Planner and Attorney worked diligently to have the Subdivision Code, Zoning Code and Adult Entertainment ordinances completed in time for this codification as well as the attorney and the Clerk working on the alcoholic beverage ordinance and animal control ordinance. Staff does understand that this document is not perfect and that there are changes the Council will want make and those changes can be made at anytime.

Clerk McCain further advised that the City is scheduled for quarterly updates that will update the pages in the books each council member will receive. This product will also be available from the City website giving the public an opportunity to review it without having to travel to City Hall.

DEPARTMENT REPORTS

City Manager Report

Manager Andrew reviewed the schedule for the budget as follows.

1. Schedule for 2011 Budget

- Week of April 19th – Review Draft of Utility Rates in Non-Quorum Council Groups
- Week of May 10th – Review Draft of General Fund Budget in Non-Quorum Council Groups
- May 20th – Official Draft of Entire Budget and Public Hearing for Budget and Utility Rates
- June 3rd – Vote on Entire Budget

2. Cessation of Furlough

Manager Andrew reviewed the calculations to alleviate the staff furlough day.

Councilman Lutz inquired on if the decrease in the reserve fund was due to the City being between revenue streams.

Manager Andrew said that he is checking into it as it appears to partially be because of the timing.

Councilman Fetterman inquired on the expiration of the Clearwater Properties contract.

Planner Riker advised that it expires on March 1st.

Councilman Yardley inquired on monthly financial reports.

Manager Andrew advised that council will be receiving monthly financials.

This item was removed from the Consent agenda and will be further discussed at the Council retreat scheduled for February 27th, 2010

City Clerk Report

Clerk McCain reviewed a bill to Municipal Code Corporation for the codification of the City Ordinances.

Clerk McCain requested approval from the council to pay the invoice in the amount of \$8,171.32.

This item was placed on the Consent Agenda for further consideration.

Attorney Report

No report

Council Report

Councilman Fetterman inquired on the status of the Spring Street culvert.

Manager Andrew advised that it has been difficult to work on due to the rain and the saturation of the ground in the area. It was anticipated that half the road would be asphalted the following weekend depending on the weather.

Mayor Hirling reminded the Council that there was a council retreat scheduled for February 27, 2010 and that it would be held at City Hall.

ADJOURNMENT WORK SESSION:

Mayor Hirling adjourned the Work Session at 7:14 pm.

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Flowery Branch

CITY OF FLOWERY BRANCH
Council Meeting Minutes
Voting Session
Wednesday February 18, 2010
Immediately following Work Session



OPEN VOTING SESSION:

Mayor Hirling opened the Voting Session at 7:14 pm.

CONSENT AGENDA:

- Public Hearing Meeting Minutes February 4, 2010
- Meeting Minutes February 4, 2010
- Beer license application for Petrofast Foods
- Contract Cybergov Consultants for Utility Rate Study
- Payment to Municipal Code Corporation in the amount of \$8,171.32

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

MOTION: Kris Yardley
 SECOND: Mike Miller
 AYES: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
 NAYES: None
 Motion carried

UNFINISHED BUSINESS:

2nd Reading - Ordinance 426 – Annexation 6401 McEver Road

Attorney Bennett read Ordinance 426.

There was a motion made to approve the second reading of Ordinance 426.

MOTION: Craig Lutz
 SECOND: Kris Yardley
 AYES: Craig Lutz, Chris Fetterman, Kris Yardley and Mike Miller
 NAYES: None
 ABSTAIN: Tara Richards

2nd Reading - Ordinance 427 – Rezoning of 6401 McEver Road

Planner Riker advised that the following items have been removed from the conditions section of prohibited uses; Art Gallery, Bank or Financial Institution, Botanical Garden, Bottling or canning Plant, Finance/Insurance or Real Estate Establishment over 2500 sq ft, School for the Arts, Professional School and Churches, temples, synagogues, or places of worship.

A further amendment would be to add these uses as prohibited uses; auction house, auction yard when pertaining to livestock, crematorium when not in conjunction with a funeral home or mortuary, explosive storage, gas tank sales and logging yard and a conditional use permit for a towing service or canning/bottling plant.

Attorney Bennett read Ordinance 427.

There was a motion made to approve the second reading of Ordinance 427 with the above mentioned amendments as well as an additional condition the requires the applicant to plant a minimum of 30'-0' structural landscape buffer, as defined by the Zoning Code along the entire frontage of McEver Road for those portions of the property that are zoned M-1 (Manufacturing & Industrial). Buffer should include a combination of evergreen trees and landscaping that provides screening of the industrial development from the roadway. Said buffer shall be installed no later than twelve months following Land Disturbance Permit (LDP) issuance.

Councilman Fetterman made the following statement:

I first would like to thank everybody who showed up tonight as well as at the last meeting and all those who have emailed and called me on this difficult decision. I would also like to thank Commissioner Banks for coming as well. Rezoning is a very emotional and controversial issue that always touches everybody involved in different ways.

What we have here is a property rights issue – the property rights of the surrounding citizens and the property rights of the owners of the property at hand. The Declaration of Independence reads, “We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” The term pursuit of happiness could also read property.

My decision will ultimately affect these property owners in a way they feel their happiness has been altered. As many stated in the previous meeting as well in phone conversations and emails – their piece of happiness could be affected.

Now I must look at other governments who could come in and allow developments on the proposed property – Hall County and Buford. I assure you that if Flowery Branch does not annex and set the standards, and I might add, high standards, then someone else will. Looking in each of these governments boundaries, you can see there are a number of buildings and developments that are not pleasing to the eye. Something I do not want in Flowery Branch.

I have heard some say they do not want a Peachtree Industrial Boulevard or Buford in this area and I agree, but if this is not brought into our city and rezoned with Flowery Branch's high standards – then you will get Peachtree Industrial Boulevard and Buford in this area.

2nd Reading - Ordinance 430 – Rezoning of 6353 McEver Road

Attorney Bennett read Ordinance 430.

There was a motion made to approve the second reading of Ordinance 430 with the additional condition that requires the applicant to plant a minimum of 30'-0' structural landscape buffer, as defined by the Zoning Code along the entire frontage of McEver Road for those portions of the property that are zoned M-1 (Manufacturing & Industrial). Buffer should include a combination of evergreen trees and landscaping that provides screening of the industrial development from the roadway. Said buffer shall be installed no later than twelve months following Land Disturbance Permit (LDP) issuance.

Further it was motioned to remove the following uses from exhibit "C" prohibited uses table; art gallery, bank or financial institution, botanical garden, bottling or canning plant, finance/insurance or real estate establishment over 2500 sq ft, school for the arts, professional school and churches, temples, synagogues, or places of worship

A further amendment would be to add these uses as prohibited uses; auction house, auction yard when pertaining to livestock, crematorium when not in conjunction with a funeral home or mortuary, explosive storage, gas tank sales and logging yard and a conditional use permit for a towing service or canning/bottling plant.

MOTION: Mike Miller
SECOND: Kris Yardley
AYES: Craig Lutz, Chris Fetterman, Kris Yardley and Mike Miller
NAYES: None
ABSTAIN: Tara Richards

1st Reading - Ordinance 431 – Municode adoption

Attorney Bennett read Ordinance 431.

MOTION: Tara Richards
SECOND: Mike Miller
AYES: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
NAYES: None

EXECUTIVE SESSION:

There was a motion made to adjourn the meeting and go into Executive Session for personnel and land acquisition at 7:32 pm.

MOTION: Chris Fetterman
SECOND: Kris Yardley
AYES: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
NAYES: None

RECONVENE OPEN SESSION:

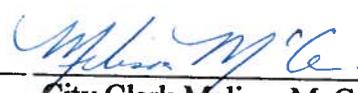
There was a motion made to exit Executive Session and reconvene Open Session

MOTION: Craig Lutz
SECOND: Chris Fetterman
AYES: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
NAYES: None

ADJOURN MEETING

There was a motion made to adjourn the meeting at 8:11 pm.

MOTION: Chris Fetterman
SECOND: Craig Lutz
AYES: Craig Lutz, Chris Fetterman, Kris Yardley, Mike Miller and Tara Richards
NAYES: None

 3-15-10 
Mayor Diane Hirling Date City Clerk Melissa McCain