

CITY OF FLOWERY BRANCH
Council Meeting
January 13, 2005 - 6:00 P.M.

MINUTES

IN ATTENDANCE: Mayor Bryan Puckette, Council Members Jim Herold, Jan Smith, Larry Pritchett, Ed Lezaj, and Jim Worl, City Manager Chris Rainwater, City Planner James Riker, City Clerk Judy Foster, and City Attorney Richard Carothers.

OPEN MEETING: Bryan Puckette called the Council Meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE: Bryan Puckette led the pledge of allegiance.

INVOCATION: Bryan Puckette gave the invocation.

EXECUTIVE SESSION

Ed Lezaj made a motion to amend the agenda to move the Executive Session to the first item on the agenda and to enter into Executive Session for the purpose of discussing personnel issues. Larry Pritchett seconded and the motion passed unanimously with five (5) votes. The Council moved into Executive Session at 6:03 p.m.

MEETING RECONVENED

The meeting reconvened at 7:07 p.m.

CONSENT AGENDA

Minutes: Larry Pritchett made a motion to approve the Council Minutes from December 9, 2004 as written. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

Agenda: Ed Lezaj made a motion to approve the agenda as presented with the amendment of Executive Session being moved to first on the agenda. Jim Worl seconded and the motion passed unanimously with five (5) votes.

Accounts Payable: Jim Worl made a motion to approve the payment of accounts payable as due and as funds are available in accordance with approved budget. Larry Pritchett seconded and the motion passed unanimously with five (5) votes.

Appointment of 2005 Officials: Jim Worl made a motion to approve the appointment of 2005 officials which are as follows: Trustee for Retirement Program - Larry Pritchett, Court Clerk - Yvonne Barron, Court Solicitor - Graham McKinnon, Court Judge - Hammond Law, Public Defender - Les Aiken, Interim Police Chief - Gerald Lanich, City Attorney - Richard Carothers, and City Clerk - Judy L. Foster. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

PUBLIC HEARING RE: HOME OCCUPATION LICENSES

Public Hearing began at 7:09 p.m. Bryan Puckette read Ordinance No. 308-B in summary form which gives the City Manager or his designee the authority to review and approve home occupation licenses. There were no comments made. Public Hearing ended at 7:10 p.m.

CITIZEN COMMENTS

Pete De Buys with Unison Site Management stated that he had submitted a proposal to the City which would give the City a lump sum payment of the cell tower lease currently paid monthly by Crown Castle. There was a general consensus to put this proposal on the next agenda.

OLD BUSINESS

First Reading of Ordinance No. 316 - To Provide For The Creation Of The Planning Commission: Bryan Puckette read Ordinance No. 316 in summary form. Jim Worl made a motion to approve the first reading of Ordinance No. 316. Larry Pritchett seconded and the motion passed unanimously with five (5) votes.

Second Reading of Ordinance No. 308-B To Amend Ordinance No. 308-A, §712, Authorizing The City Manager Or His Designee To Review And Approve Home Occupations: Bryan Puckette read Ordinance No. 308-B in summary form during the Public Hearing earlier. Larry Pritchett made a motion to approve the second reading of Ordinance No. 308-B as written. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

Format of Future Meetings: Jim Herold made a motion to postpone this agenda item. Larry Pritchett seconded and the motion passed unanimously with five (5) votes.

Request for Accounting Training for City Hall Staff: Jan Smith made a motion to approve the accounting training requested for City Hall staff for \$1,950. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

Accountant's Financial Review: Ed Lezaj made a motion to change the frequency of Henry & Company's review of the City's financial statements from monthly to quarterly, in quarters which do not coincide with our fiscal year end. Larry Pritchett seconded and the motion passed unanimously with five (5) votes.

NEW BUSINESS

Request from Eckerds for Beer & Wine License: Larry Pritchett made a motion to approve the beer and wine license request from Amy Anderson, Store Manager with Eckerds Drugs, located at 5915 Spout Springs Road. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

First Reading of Ordinance No. 118-A To Amend Ordinance No. 118, An Ordinance To Amend The Occupational Tax Ordinance For The City Of Flowery Branch, Georgia: Bryan Puckette read Ordinance No. 118-A in summary form. Jim Herold made a motion to approve the first reading of Ordinance No. 118-A as written. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

First Reading of Ordinance No. 317 to Amend the Charter of the City of Flowery Branch, Section 2.4, Powers and Duties of the Mayor: Larry Pritchett read Ordinance No. 317 in full. Jan Smith asked the City Attorney if the City has the authority to change the City Charter by Ordinance. Richard Carothers stated yes, in his opinion this Ordinance is permissible to amend the City Charter according to the Home Rule. Ed Lezaj recommended changing Section 2.4 (a) from spokesman to spokesperson. Larry Pritchett made a motion to approve the first reading of Ordinance No. 317. Jim Worl seconded. Bryan Puckette read the following statement into the record:

1. After studying the Georgia Municipal Code and materials received from the Georgia Municipal Association's legal department, it's my belief that the action about to be taken by the City Council is illegal.
2. This item has not been discussed in any previous open meeting. This morning the City Attorney told me that Mr. Rainwater told him that the Ordinance was being written at the direction of a majority of Council Members; therefore, it is apparent that three or more Council Members have violated the State's Open Meetings law.
3. According to the City Attorney, Mr. Rainwater drafted this Ordinance. Mr. Rainwater is not licensed to practice law, nor is that what he was hired to do. Furthermore, he has a conflict of interest in introducing the Ordinance, as he stands to personally benefit from its adoption.

Richard Carothers reiterated that this Ordinance is permissible through the Home Rule. Vote unanimous.

First Reading of Ordinance No. 163-A to Amend Ordinance No. 163 to Require an Affirmative Vote of Three Members of the City Council and either the Mayor or a Fourth Council Member in order to Remove the City Manager: Discussion held on Ordinance No. 163. No action taken.

Planning of Council Retreat: Ed Lezaj made a motion to postpone this agenda item. Larry Pritchett seconded and the motion passed unanimously with five (5) votes.

Adoption of GMA Approved Ethics Resolution No. 05-063: Jim Herold read Resolution No. 05-063 in full. Jim Herold made a motion to approve the Resolution as written. Jim Worl seconded and the motion passed unanimously with five (5) votes.

First Reading of Ordinance No. 318 – GMA Approved Ethics Ordinance: Jim Herold read Ordinance No. 318 in summary form. Jim Herold made a motion to approve the first reading of Ordinance No. 318 as written. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

Resolution 05-064 – Joint Resolution with Hall County regarding use of Hall County Magistrate Court facilities for hearing citations from the City's Animal Control Ordinance: Bryan Puckette read Resolution No. 05-064 in full. Jim Worl made a motion to adopt Resolution No. 05-064 as written. Ed Lezaj seconded and the motion passed unanimously with five (5) votes.

PLANNING, ZONING, AND ANNEXATION ISSUES

Status of Comprehensive Plan: James Riker reported that the City is not in compliance with the DCA Comprehensive Planning Standards and Procedures and has lost our status as a Qualified Local Government. Mr. Riker also stated that our previous plan submittal is null and void and we essentially have to start over. There is a general consensus among the Council for Mr. Riker to prepare a Request for Proposal and solicit for bids for the preparation of the Comprehensive Plan.

REPORT FROM CITY ATTORNEY

None.

REPORT FROM CITY MANAGER

Chris Rainwater stated that the monthly Police Department report has been given to each member of the City Council.

Chris Rainwater reported that we are waiting on eminent approval from EPD regarding the upgrade on the sewer plant. Mr. Rainwater stated that he would have a complete report for the Council next month.

Chris Rainwater stated that the FY2006 budget process is beginning this month.

Jim Worl commended the City Manager for the quality and quantity of communication he has given the Mayor and Council since he was appointed.

ADJOURNMENT

Ed Lezaj made a motion to adjourn the meeting. Jim Herold seconded, and the motion passed unanimously with five (5) votes.

Meeting adjourned at 8:23 p.m.

City Clerk

Date Approved

Mayor