



**CITY OF FLOWERY BRANCH
SPECIAL CALLED MEETING
Friday, December 23rd, 2005
12:00 P.M.**



**Meeting called by Council Members
Jan Smith and Allen J. Bryans, Sr.**

MINUTES

IN ATTENDANCE: Mayor Bryan Puckette, Council Members Jim Herold, Jan Smith, Larry Pritchett, and Allen Bryans. Interim City Clerk Lou Camiscioni, Planning Administrator James Riker, and City Attorney Ron Bennett.

OPEN MEETING: Mayor Bryan Puckette called the meeting to order at 12:00 p.m.

NEW BUSINESS:

- 1. Zoning Map.** Mr. Bryans stated that he would like to see the Zoning Map signed by the Mayor. It has not been signed as of this date by the Mayor. If the Mayor is not going to sign it we would like to have the Mayor Pro Tem sign it. Mayor Puckette indicated that he has made it clear from the beginning that he has had no intention of signing the map because of the errors on it. Mr. Bryans stated that the Map had been passed by the Council and he is asking for it to be signed today by the Mayor Pro Tem where we won't have to go through the same process next year. Mr. Bryans made a motion that we have the Mayor Pro Tem sign the Zoning Map. Motion seconded by Mr. Herold. Motion passed unanimously with four (4) votes.
- 2. Engagement Letter to D. Jeff DeLancey, CPA.** Mr. Herold remarked that this should be left up to the incoming Council and Mayor, Mayor Puckette stated this is regarding the engagement letter to Mr. DeLancey to continue a more in-depth audit of the

expenditures of the City Manager and some of the checks that were signed by those other than the Mayor. The Mayor stated he has consulted with the district attorney and he is going to need this information. The Mayor then stated he had consulted with his own attorney about the engagement letter after reading Mr. Bennett's opinion and he agrees with Mr. Bennett that the Mayor does not have contractual authority to sign the letter. The Mayor stated he had also talked to Mr. DeLancey about that and he is OK with the letter being essentially void anyway but we can void it officially. Mayor Puckette then remarked that he had Mr. Bennett's own opinion in writing that the Purchasing Policy that was approved for the City Manager transferred to the Chief Elected Official of the City of Flowery Branch. Mr. Bennett asked Mayor Puckette to which writing was he referring to. Mayor Puckette stated that it was for the audit. Mr. Bennett asked the Mayor specifically about the writing that says the Purchasing Policy that I wrote that said you (the Mayor) had the authority. Mayor Puckette referred back to a lunch engagement that Mr. Bennett and he along with Mr. Riker, Mr. Bennett stated that you had told Mrs. Smith that and then we have an e-mail regarding the sign posts where the issue came up and you (Mr. Bennett) confirmed that in the e-mail. Mr. Bennett then stated his opinion so as it was clear there is nothing in writing that says you have all the authority of the City Manager position. The sign posts were a budgeted item that Mrs. Smith and Mr. Rainwater put into the budget and my opinion was that you could sign that check. Mayor Puckette stated he understood Mr. Bennett's opinion that Mrs. Smith couldn't approve the purchase, that it was up to the Mayor, unless the Council voted on it and that's why it came before the Council for a vote.

Mayor restated that the engagement letter falls within the guidelines and parameters of the Purchasing Policy first of all, second of all it's my responsibility to be sure that, and my oath of office, that the law be upheld; the Constitution of the United States, the laws of the State of Georgia, and the laws of the City of Flowery Branch and that's what I'm trying to do, that's my

responsibility to see if any questionable expenditures have been made. Third, I'm a public official and a citizen of the City and these issues are public record. [Item 3](#) under New Business as well, the City Managers computer hard drive; this is public record unless an official investigation has been started. Right now it is in protective custody of the Police Department; I want a copy of it. It is public record and I want to know what is on it under Open Records Act.

Mayor Puckette stated that he agrees, the letter of engagement letter probably can't be signed unless it is voted on by City Council. I'm prepared to entertain a vote there may be enough votes to do that today. Otherwise I'm still going to have it done. The end result is going to be the same I have the authority I have the mandate it is my responsibility. I'm saying those statements for items 2 and 3 under New Business.

Mr. Bryans asked whether the Mayor has the ability to do this on his own even if the Council does not want it done.

Mr. Bennett stated if the Mayor wants to expend his own personal resources and use Open Records to do it, yes.

Mayor Puckette stated then he is entitled to this information as Chief Elected Official of the City, if I spend my own funds I'm entitled to reimbursement according to State Legislature and the City Charter.

Mr. Bennett stated that the engagement letter expenses would not be reimbursed unless approved by the City Council. Mayor has already relented to that. The Mayor was asked by the City Attorney how much is the forensic testing. Mayor Puckette stated that so far it is right at \$1,000.00. He (the vendor) does not estimate it to go over \$3,000.00. The same thing with the computer hard drive.

Mr. Bennett stated that this City is not set up where this Mayor has a pool of money that the Mayor can spend. Other cities do. If this is not a budget item that has already been approved by the City Council I don't legally the Mayor or any individual Council Member can undertake such testing without authority from the legislative body which is the Council as a whole.

Mayor Puckette stated that there is a conflict of interest in this legislative body. He believes that three (3) of the Council Members are going to be implicated in wrong doing.

Mayor asked for a vote from Council. Mr. Herold made a motion that we refer items #2 and #3 engagement of the CPA and the Forensic testing to the new Council in the year 2006. Motion seconded by Mrs. Smith.

Mrs. Smith stated for the record that she is going to agree to postpone this to the new Council. She does not feel the new Council is fully informed as to some of the activities and testimony that took place in court last year. She agrees with the Mayor that there are probably some issues that need to be looked at; a fraud audit should take place just to put the matter to rest. It quite probable that no improper activity took place and if improper activity did take place she believes that it is the obligation of the elected officials to take whatever action is required to deal with that just because we represent the citizens, we uphold the laws of our City and if there has been wrong doing done towards the City then she believes the elected body should deal with it.

Mayor stated we need someone to match up those expenditures to proper documentation and we already know proper documentation is not there. What we need is a complete list to submit to the District Attorney.

Mr. Pritchett stated the new Council can do all that. Mayor then asked why can't the current Council do it. Mr. Pritchett replied that the Mayor was implicating three of the current Council.

Mr. Bryans asked why wasn't this started two months ago rather than wait until you have ten days left in your term. Mr. Bryans then asked the City Attorney ... the chain of evidence has not been preserved. Can his attorney fight using this claim. Mr. Bennett replied yes it could be an issue.

Mrs. Smith asked wouldn't the burden of this fall on the City? Would it not be the District Attorney that would take action on this and then it becomes their expense and their issue? Mr. Bennett replied yes.

Mayor stated that the District Attorney needs to see the issue first. He (DA) will not launch an investigation based on somebody telling him ... I believe this is what happened. He needs to see the documentation.

Mrs. Smith agrees with Mr. Pritchett's statement about three of the current Council Members are implicated in this and I do think there is a conflict of interest for this body to or some of the members to vote on it and I think it should be deferred to the next Council to deal just because there is a conflict. Mr. Bennett's law firm may even have a conflict.

Mayor stated he would call the vote because he believed the person who made the motion has a conflict of interest. He is not sure if this is legal.

Mr. Bennett said that the Constitution protection of being innocent until being proven guilty. Mayor agrees and calls for the vote. Motion carries unanimously.

Mayor stated that the meeting is still adjourned that he disagrees with vote that was taken today and believes that it is his responsibility and I may still continue on his own in spite of this vote. He does not think the vote carries (inaudible) over his obligation or his oath of office. So he will decide what he will or won't do about it.

3. **Forensic testing of City Manager's computer hard-drive.**
discussed and included under Item #2 of New Business.


Citizen Comments - none.

4. **Booster Pump Contract.** *Taken care of before the meeting started.*
Mayor signed the contract.

EXECUTIVE SESSION – not required.

A.  Potential / Pending Litigation

B.  Personnel Matters

C.  Land Acquisition

Mr. Bryans made a motion to adjourn. Motion seconded by Mrs. Smith. Motion carried unanimously.