



**CITY OF FLOWERY BRANCH
COUNCIL MEETING
Wednesday, January 26, 2006 – 9:30 a.m.**



**SPECIAL CALLED WORK SESSION
AND VOTING SESSION MINUTES**

OPEN MEETING: Mayor Hirling opened the meeting at 9:30 a.m.

IN ATTENDANCE: Mayor Hirling, Council Members Jim Herold, Jan Smith, Pat Zalewski, Allen Bryans, and Mary Jones. Also in attendance were City Clerk Melissa McCain, City Planner James Riker, City Attorney Dick Carothers, and Phil Sutton from Hall County. City Attorney Ron Bennett joined the meeting and Attorney Carothers left the meeting.

Mayor Hirling advised that there was an amendment to the Agenda. The Approval of the December 8, 2005 Work Session followed by a Voting Session was added to the Consent Agenda.

CONSENT AGENDA:

1. Approval of Council Minutes for December 8, 2005 Work Session followed by Voting Session.
2. Approval of Council Minutes for December 23, 2005 Special Called Meeting.
3. Approval of Council Minutes for January 3, 2006 Organizational Meeting.
4. Approval of Council Minutes for January 3, 2006 Special Called Council Meeting.
5. Approval of Council Minutes for January 5, 2006 Council Meeting Work Session.
6. Approval of Council Minutes for January 12, 2006 Special Called Work Session.
7. Approval of Council Minutes for January 12, 2006 Special Called Meeting Following Special Called Work Session.

A motion was made to approve the Council Meeting Minutes for December 8, 2005 Work Session followed by Voting Session and to approve the Council Meeting Minutes for December 23, 2005 Special Called Meeting.

MOTION: James Herold
SECOND: Jan Smith
AYES: James Herold, Jan Smith and Allen Bryans.
NAYES: None
ABSTAIN: Pat Zalewski and Mary Jones
Motion passed.

A motion was made to approve Council Meeting Minutes for January 3, 2006 Organizational Meeting, January 3, 2006 Special Called Council Meeting January 5, 2006 Council Meeting Work Session January 12, 2006 Special Called Work Session January 12, 2006 Special Called Meeting Following Special Called Work Session.

MOTION: Allen Byrans

SECOND: Pat Zalewski

AYES: Allen Bryans, Pat Zalewski, Jan Smith, James Herold and Mary Jones.

NAYES: None

Motion passed.

PUBLIC HEARING:

Public Hearing for Variance No. V-06-01 – Layla Harris (on behalf of Madison Creek Builders) – Reduction of front setback for 5542 Ashmoore Court

Ms. Layla Harris was present representing Madison Creek Builders.

Planning and Community Development Manager Mr. Riker provided a power point presentation and reviewed the request. Mr. Riker advised that after careful review staff approves of the request.

Ms. Layla Harris approached the Council and advised that while building the residence in question it was noted that the sewer stub would have been located in the center of the driveway so as to avoid this, the footprint of the residence was flipped and built.

Ms. Harris advised that encroachment into the setback was truly a mistake and if the variance was not approved that this home would need to be torn down.

Mr. Ed Lezaj, 5612 Newberry Point, Flowery Branch, Ga. 30542 approached the Council and advised that his property abuts the backside of the Madison Creek Development and requested that the City research in-depth possible buffer encroachment problems at the Madison Creek Subdivision.

Mr. Lezaj further advised that the 35 foot buffer that is to be undisturbed has been encroached on in many cases including the clearing of trees and construction of a deck in the buffer area.

Mr. Lezaj requested that the Council refuse to approve the Variance at 5542 Ashmore Court.

Public Hearing for Variance No. V-06-02 – Richard Boring – Reduction of rear yard setback for 4714 Atlanta Highway

Mr. Richard Boring was present as the owner.

Planning and Community Development Manager Mr. Riker provided a power point presentation and reviewed the request. Mr. Riker advised that after careful review staff approves of the request with conditions.

Mr. Richard Boring approached the Council and advised that he has been attempting to build the addition for the last five (5) years and finally has financing in place.

Mr. Boring advised that the approval of this resolution will allow for a dramatic clean up and aesthetic improvement.

Public Hearing for Variance No V-06-03 – Deana Browder (on behalf of Wilwat Properties) – Increase in sign area from 24 sq ft to 32 sq ft at Tree Park Apartments

Deana Browder was present representing Wilwat Properties.

Planning and Community Development Manager Mr. Riker provided a power point presentation and reviewed the request. Mr. Riker advised that after careful review staff approves of the request with conditions.

Public Hearing for Amendment to Rezoning Conditions of Ordinance No. 239 & 240 – Kevin O’Neill – Request to reclassify a portion of Lake Sterling Boulevard and for other modifications to previously required off-site improvements along Capitola Farm Road for the Sterling on the Lake Development

Kevin O’Neill was present representing Newland Communities.

Mr. Overn was present representing Street Smarts

Planning and Community Development Manager Mr. Riker provided a power point presentation and reviewed the request. Mr. Riker advised that after careful review staff approves of the request with conditions.

Public Hearing for Amendment to Rezoning Conditions of Ordinance No. 198 – Barry Allen (on behalf of Garen Homes and Battle Properties) – Request to reduce the required driveway width from 16’-0” to 12’-0” for each townhouse. This request will also modify the developer’s original commitment to provide three (3) parking spaces for each townhouse located .at the Water Stone Crossing Development.

Barry Allen was present representing Garen Homes and Battle Properties.

Planning and Community Development Manager Mr. Riker provided a power point presentation and reviewed the request. Mr. Riker advised that after careful review staff approves of the request with conditions.

Jessica Halsail, 4865 Beacon Ridge, Flowery Branch, Ga. was present representing the homeowners and made the following requests for Council to consider as conditions:

- 1 Removing 1 proposed parking spot that was in the flood plain and turn a second parking spot to enter from a different street.
- 2 Change plan to have entrance/exit on Zepher Cove.
- 3 Provide lighted sidewalks connecting cul-de-sacs to new proposed parking areas.

UNFINISHED BUSINESS:

Second Reading Ordinance # 312A - A request for an amendment to the original conditions of approval of Ordinance No. 312, relating to a 67 lot subdivision on 15.658 ± acres generally known as "Clarkstone Village

Attorney Ron Bennett Read the Ordinance.

A motion was made to accept the second reading of Ordinance 312A as read.

MOTION: Jan Smith
SECOND: James Herold
AYES: Jan Smith, James Herold, Pat Zalewski and Mary Jones.
NAYES: None
ABSTAIN: Allen Bryans
Motion carried

Update on Wilwat Issue

Phil Sutton advised Council that a meeting was held with Kelly Randall, Attorney Bennett and John Washington regarding Flowery Branch severing the link between Gainesville water and the Flowery Branch system.

Further Mr. Sutton advised that Gainesville Water was not willing to modify the service fee.

A motion was made to give staff the authority to settle financially, obtain ownership of the water lines and work with Gainesville Water.

MOTION: Mary Jones
SECOND: Allen Bryans
AYES: Mary Jones, Allen Bryans, Jan Smith, James Herold, Pat Zalewski.
NAYES: None
Motion carried.

NEW BUSINESS:

First Reading Ordinance # 303-C Setting Dates and Times of Council Meetings

Attorney Ron Bennett read Ordinance 303-C for the first required reading.

A motion was made to approve the first reading of Ordinance 303-C as read.

MOTION: Allen Bryans
SECOND: Jan Smith
AYES: Allen Bryans, Jan Smith, James Herold, Pat Zalewski and Mary Jones.
NAYES: None.
Motion carried.

Resolution # 06-004 Appointment of Mayor Pro Tem

Attorney Bennett read Resolution #06-004.

A motion was made to appoint Councilman Allen Bryans as the Mayor Pro Tem for the City of Flowery Branch.

MOTION: Jim Herold
SECOND: Pat Zalewski
AYES: Jim Herold, Mary Jones, Pat Zalewski and Jan Smith
NAYES: None
ABSTAIN: Allen Bryans
Motion carried.

Appointment of Trustee for Retirement Plan

A motion was made to appoint Mayor Diane Hirling as the Trustee for the Mass Mutual retirement Plan.

MOTION: Mary Jones
SECOND: Allen Bryans
AYES: Mary Jones, Allen Bryans, Pat Zalewski, James Herold and Jan Smith.
NAYES: None
Motion carried.

Appoint one (1) citizen to Metropolitan Planning Organization

There was a motion made to appoint Ron Petrie to the Metropolitan Planning Organization.

MOTION: Pat Zalewski
SECOND: James Herold
AYES: Pat Zalewski, James Herold, Mary Jones, Allen Bryans and Jan Smith.
NAYES: None
Motion carried.

Discussion for Draft Charter Amendment for the Position of City Manager

Mr. Sutton advised the Council that the Charter is revised to re-establish authority of the Mayor position and to establish City Manager, City Clerk and City Attorney as appointed positions.

Mr. Sutton continued by stating that the Council needed to give direction on who was to make the appointments to the above mentioned position. The options are:

- 1 Mayor appoint and the Council approves
- 2 Mayor nominates and Council approves
- 3 Majority vote to appoint, the Mayor or any Council member may nominate.

Mr. Sutton further advised that the Charter is the overall frame work of the City and positions are fine tuned through the job descriptions.

There was a consensus of the City Council to allow the Mayor or any of the Council members to make nominations for appointed positions and that the majority vote would secure the nominee into the position.

There was a consensus of the City Council to not allow a person to retain a position with the City after he/she has been removed or resigned their position for a period of three (3) years.

Mr. Sutton reviewed the proposed job description and advised, if approved, staff would like to post the position and start the recruiting process.

There was a motion made to adopt the job description as presented by staff.

MOTION: James Herold
SECOND: Jan Smith
AYES: James Herold, Jan Smith, Pat Zalewski, Mary Jones and Allen Bryans.
NAYES: None
Motion carried

There was a motion made to direct staff to post the position of City Manager and begin the recruitment process.

MOTION: Jim Herold
SECOND: Jan Smith
AYES: Jim Herold, Jan Smith, Allen Bryans, Mary Jones and Pat Zalewski.
NAYES: None
Motion carried

Resolution No. 06-01 for Variance No. V-06-01 – Layla Harris – Reduction of front setback for 5542 Ashmore Court.

There was a motion made to approve Variance No. 06-01, Reduction of front setback for 5542 Ashmore Court.

MOTION: Allen Bryans
SECOND: Mary Jones
AYES: Allen Bryans, Mary Jones, Jan Smith, James Herold and Pat Zalewski.
NAYES: None
Motion carried

Resolution No. 06-02 for Variance No. V-06-02 Reduction of rear yard setback for 4714 Atlanta Highway.

There was a motion made to approve Variance #V-06-02, Reduction of the rear yard setback for 4714 Atlanta Highway.

MOTION: James Herold
SECOND: Jan Smith
AYES: James Herold, Jan Smith, Mary Jones, Pat Zalewski and Allen Bryans
NAYES: None
Motion carried

Resolution No. 06-03 for Variance No. V-06-03, Increase in sign area from 24 sq ft to 32 sq ft at Tree Park Apartments.

There was a motion made to approve Variance No. V-06-03, Increase in sign area from 24 sq ft to 32 sq ft at Tree Park Apartments.

MOTION: James Herold
SECOND: Jan Smith
AYES: James Herold, Jan Smith, Allen Bryans, Mary Jones and Pat Zalewski.
NAYES: None
Motion carried.

First Reading Ordinance No. 239A and 240A for Amendment to Rezoning Conditions of Ordinance No. 239 & 240, Request to reclassify a portion of Lake Sterling Boulevard and to allow for other modifications to previously required off-site improvements along Capitola Farm Road for the Sterling on the Lake Development.

Attorney Bennett read Ordinance No. 239A and 240A for the first public reading.

There was a motion made to approve the first reading of Ordinance 239A and 240A, An Ordinance amending the conceptual site plan and original conditions of approval relating to Ordinance # 239 and 240, for the master planned community on 897+,- acres generally known as "Sterling on the Lake" located in the PUD (planned unit development) zoned district. The development is located adjacent to the intersection of Capitola Farm Road and Spout Springs Road. The property is legally described as: A 27.69 acre portion of parcels of real property owned by Looper Lake LLC, being 126.526 acres (tract A), 594.11 acres (tract B), and Moreland Altobelli, dated January 25, 2001; and 136 acres located in G.M.D. 1270 Flowery Branch District, Hall County, Georgia, shown as tract 1 on a plat of survey prepared by Rochester & Associates dates July 20, 2001. The Ordinance provides for findings, severability, repealing conflicting Ordinances, establishing an effective date, and for all other lawful purposes.

MOTION: Jan Smith
SECOND: Allen Bryans
AYES: Jan Smith, Allen Bryans, Pat Zalewski, Mary Jones and James Herold.
NAYES: None
Motion carried.

First Reading Ordinance No. 198A Amendment to Rezoning Conditions of Ordinance No. 198 – Barry Allen – Request to reduce the required driveway width from 16'-0" to 12'-0" for each townhouse. This request will also modify the developer's original commitment to provide three (3) parking spaces for each townhouse. Water Stone Crossing Development.

There was a consensus of the Council to continue the Public Hearing regarding the first reading of Ordinance No. 198A amendment to rezoning conditions of Ordinance No. 198 request to reduce the required driveway width from 16'-0" to 12'-0" for each townhouse including modifications to the developer's original commitment to provide three (3) parking spaces for each townhouse until Wednesday February 1st, 2006 Special called Work Session and Voting Session of the City Council.

PLANNING, ZONING, AND ANNEXATION ISSUES

TE Grant

Community Development Manager Riker reminded the Council that TE Grant was scheduled for a Public Meeting on Monday, January 26, 2006 at the Depot

Tidewater Cove sidewalk issue

Manager Riker advised that he had met with D.R. Horton and has made progress on this issue and has further advised D.R. Horton that until the situation is finalized there would be no more issuing of permits for that development.

Update on Comprehensive Plan and Zoning Code/Subdivision Regulations

Manager Riker advised that the information has been forwarded to the State and a modified work schedule has been received. The consultant believes a rough draft may be available in February with completion in March or April.

Update on leases for Norfolk Southern Railroad property adjacent to Railroad Avenue

Manager Riker advised that Norfolk is interested in the City taking over maintenance of the building and the property under it. Discussions have taken place regarding the removal of two (2) buildings in lieu of making lease payments.

Manager Riker also informed the Council that Norfolk has reimbursed the City \$3,500.00 for the removal of the wood pile that was located along the tracks on Railroad Avenue.

Update on Ordinance No. 331 regarding updated Soil and Erosion Ordinance consistent with new state requirements

Manager Riker advised that this item is still being revised and should be ready for the next voting session.

Manager Riker advised that the paper had printed an article about building plans for the Halverson Development located at Hog Mountain and Spout Springs Road and when more information was available he would report to the Council.

Councilwoman Smith inquired on the status of complaints about the Madison Creek Subdivision.

Manager Riker advised that out of 3 complaints one (1) was not affecting the buffer area and was unfounded. The other complaints are still being investigated. The complainants are updated with courteously calls.

Councilman Bryans advised that the Council needs to consider ways to market the property the City owns on Roberts Drive.

John Washington advised that he has a survey and appraisal of the property and will forward them to the council.

REPORT FROM CITY ATTORNEY

No report

CITIZEN COMMENTS – *please observe the two (2) minute time frame for comments.*

None

ADJOURNMENT INTO EXECUTIVE SESSION:

A motion was made to .close the Special Called Work Session and Voting Session at 11:51 A.M. and enter Executive Session to discuss:

- 1 Potential Litigation
- 2 Personal Issues

MOTION: Mary Jones
SECOND: Allen Bryans
AYES: Mary Jones, Allen Bryans, Pat Zalewski, James Herold and Jan Smith.
NAYES: None
Meeting adjourned into Executive Session 11:51 A.M.

EXECUTIVE SESSION:

A Motion was made to enter Executive Session at 12:01 P.M.

MOTION: James Herold
SECOND: Allen Bryans
AYES: James Herold, Allen Bryans, Jan Smith, Mary Jones and Pat Zalewski
NAYES: None
Motion carried 12:01 P.M.

There was a motion made to close Executive Session at 12:45 P.M.

MOTION: Mary Jones
SECOND: Pat Zalewski
AYES: James Herold, Allen Bryans, Jan Smith, Mary Jones and Pat Zalewski
NAYES: None
Executive Session closed at 12:45 P.M.

There was a motion made to enter the open meeting at 12:46 P.M.

MOTION: Allen Bryan
SECOND: Jan Smith
AYES: Allen Bryans, Jan Smith, James Herold, Pat Zalewski and Mary Jones.
NAYES: None
Motion carried 12:46 P.M.

There was a motion made to adjourn the 01-26-06 Special called Work Session and Voting Meeting at 12:49 P.M.

MOTION: James Herold

SECOND: Pat Zalewski

AYES: Allen Bryans, Jan Smith, James Herold, Pat Zalewski and Mary Jones

NAYES: None

Meeting adjourned at 12:49 P.M

City Clerk - Melissa McCain

Date

Mayor Diane Hirling