



**CITY OF FLOWERY BRANCH  
COUNCIL MEETING  
Wednesday, December 15, 2006,  
9:30 a.m.**



**SPECIAL CALLED VOTING SESSION**

**OPEN MEETING:** Mayor Hirling opened the meeting at 9:42 a.m.

**IN ATTENDANCE:** Mayor Hirling, Council Members Jim Herold, Allen Bryans, Pat Zalewski, Mary Jones and Jan Smith. Also in attendance were City Manager Bill Andrew, City Clerk Melissa McCain, City Planner James Riker and City Attorney Ron Bennett.

**UNFINISHED BUSINESS:**

**Resolution 06-138 – Porter Road Abandonment**

Attorney Bennett read Resolution 06-138 and reviewed changes.

There was a motion made to approve Resolution 06-138 as read.

MOTION: Allen Bryans

SECOND: Pat Zalewski

Vote recorded after discussion

There was an objection to the motion by J. Cale Rodgers, Attorney for Ricky Roberts, 4767 Porter Drive, Flowery Branch, Ga. 30542.

Councilman Herold called for a point of order reminding the public there are no public comments at Voting Session or on the agenda.

Mayor Hirling advised that Attorney Rodgers objection would be noted but that there were no public comments on the agenda.

Attorney Rodgers produced a written objection to Clerk McCain which is recorded with the minutes.

Councilwoman Smith called a point of order and requested discussion on the issue.

Councilwoman Smith requested that Attorney Rodgers address the Council.

Attorney Rodgers addressed the Council and made the following summary;

Attorney Rodgers advised that he was present to oppose the abandonment of Porter Rd. Mr. Rodgers advised that his client felt the abandonment was proposed primarily for the developer, Flow One LLC, and not for the benefit of the public as the law requires. Further, Porter Road has been maintained by the Hall County and continues to do so. Because Hall County maintains this road they should be part of this proceeding, which they are not.

Continuing, the proposed changes regarding the access to the property, would not allow the Roberts family to access Spout Springs Road as they have had and used for 40 years. The access proposed is not equal to what the Roberts Family currently has.

Attorney Rogers requested that the Council deny the abandonment of Porter Road.

Councilman Bryans inquired on what section of Porter Road Hall County maintains.

Mr. Rogers advised that he believes there is a section at the elbow of the road and that the City of Flowery Branch has not maintained this roadway for any significant amount of time and that the annexation has given the City some authority with respect to the road but that it has been Hall County that has maintained the road.

Councilwoman Smith advised that she was only aware that Mr. Roberts had issues and concerns with the proposed access from Hog Mountain and inquired if Mr. Roberts was now expressing concerns with the Spout Springs access. Councilwoman Smith advised that this was the first the Council has heard about the Spout Springs Road access issues.

Attorney Rodgers advised that he has only been retained recently by the Roberts family and that he has not had a chance to discuss in length all Mr. Roberts concerns and that Mr. Roberts may not have been aware or understood all of his easement rights.

Councilwoman Smith inquired if the City had received anything from Hall County regarding this issue.

City Attorney Ron Bennett advised that he was in receipt of a letter from Hall County which indicates that Porter Road is not in Hall County's street system and that the City of Flowery Branch has control of the roadway.

Councilwoman Smith inquired if representatives from the Halvorsen Development wanted to address the Council.

Attorney Jay McClure, representing the Halvorsen Development, addressed the Council and made the following summary;

It is well established that Hall County does not claim any interest in Porter Road and any interests they may have had have been seeded to Flowery Branch. The developer has agreed to provide Mr. Roberts's access through a new improved drive to Hog Mountain Road that connects to the dirt portion of Porter Road that abuts his property. There will be no access directly to Spout Springs but a safer signaled access off Hog Mountain. Currently the access to Spout Springs from Porter Road is un-signalized intersection and is not as safe as the proposed signaled access only approximately 350 feet further down Spout Springs Road. Further the abandonment of the road will enhance the project as well as access to Mr. Roberts's property and it will also benefit the City of Flowery Branch.

Mayor Hirling had a motion, a first and a second vote on the floor and called for the vote.

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

NAYES: None

Motion carried

### ***2<sup>nd</sup> Reading Ordinance 100F - Commercial/Industrial/Business Sewer Rates***

Attorney Bennett read Ordinance 100F.

There was a motion made to approve the second reading of Ordinance 100F

MOTION: Jim Herold

SECOND: Allen Bryans

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

NAYES: None

Motion carried

### ***Resolution 06-143 – Sewer Rate Fees***

Attorney Bennett read Resolution 06-143.

Attorney Jay McClure, representing the Flow One LLC, addressed the Council and requested that the Ordinance be postponed to the regularly scheduled January 2007 Voting Meeting so that the developer has time to review the rate structure.

There was a motion made to approve Resolution 06-143

MOTION: Allen Bryans

SECOND: Mary Jones

Vote recorded after discussion

Councilwoman Smith requested discussion.

Councilwoman Smith addressed the Council and summarized by stating that 2 years ago the City entered into an agreement with Hall County for 400,000 gallons of capacity in exchange for the debt the City had with Hall County over the sewer plant being built. In that contract the 400,000 was meant to be used for CIB. 85% had to be for CIB and 15% for residential. The County has not met the agreement. The County was on its way to secure GIFA the funds to run sewer lines down McEver Road, Hog Mountain Road and Atlanta Highway. Somewhere along the line 200,000 gallons was given to the City of Oakwood and that was not part of the agreement and another 100,000 has been allocated to other residential areas around our area. That exceeds the 15% allowed for residential. This is two areas that this agreement has been violated. If the City were to pursue with the County the upholding of the agreement the City would have the 400,000 and capacity for the Halverson and Conner property and County Craft with no issues.

Councilman Herold advised that he agreed with Councilwoman Smith and that Hall County has not lived up to agreement.

Further, Councilman Herold reviewed the breakdown of the proposed fees. Currently the cost for the plant is approximately \$17.10 Commercial and residential is comparable. Councilman Herold expressed concerns with the City having to pay ten dollars a gallon to buy back the 100,000. Gallons. The \$17.10 is the minimum amount needed to provide the services. To get the capacity back from Hall County \$1.00 per gallon could be added and the cost to run the sewer thru the lines is approximately \$1.00. Any charge above \$19.10 needs to be justified.

There was some discussion regarding the fee break down that was provided by Mr. Hewitt.

City Manager Andrew advised that Mr. Hewitt has offered to meet with the Council to explain the fee structure.

Councilwoman Jones inquired if the rates could be reviewed and changed by Resolution at a later date.

Attorney Bennett advised that the rates can be changed at anytime by resolution

Councilwoman Jones inquired on the status of the new agreements regarding sewer capacity.

Manager Andrew advised that the next meeting is scheduled for the December 28<sup>th</sup>, 2006.

Mayor Hirling called for the vote.

AYES: Mary Jones, Allen Bryans and Pat Zalewski

NAYES: Jan Smith and Jim Herold

Motion carried

### **CITY MANAGER'S REPORT:**

Manager Andrew advised that he and the Mayor had a 3:45 p.m. meeting scheduled with the Legislator regarding holding a referendum for a tax allocation district.

Further Manager Andrew reviewed a handout regarding a Local Assistance Grant Request. The monies would be used for geographic information system mapping of sewer and stormwater facilities. By mapping and collecting data on the capabilities and needs of our current system this will serve as a 5-year capitol improvement plan and the construction of the new wastewater treatment plant.

There was a voice resolution to forward said documents to Mr. James Mills to forward to the Legislator.

MOTION: Jim Herold

SECOND: Pat Zalewski

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

NAYES: None

Motion carried.

### **ATTORNEY REPORT:**

No report

**CLERK REPORT**

No report

**PLANNING AND ZONING**

No report

**COUNCIL REPORT:**

No report

**ADJOURNMENT**

There was a motion made to adjourn the Special Called Voting session at 10:25 am.

MOTION: Jim Herold

SECOND: Jan Smith

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

NAYES: None