

HOSCHTON CITY COUNCIL
Call Meeting

August 17, 2007, 4:00 p.m.
Hoschton City Hall

ORDER OF BUSINESS:

A. CALL TO ORDER: Mayor Copenhaver

Mayor Copenhaver called the special call meeting to order at 4:00 p.m.

B. ROLL CALL OF MEMBERS:

Bill Copenhaver, Mayor

Richard Green, Post 1

Jim Jester, Post 2

John Schulte, Post 3

Ronald Holcomb, Post 4

Deborah Donaldson, Post 5

James Keinard, Post 6

Cindy R. Edge, City Clerk

Thomas Mitchell, City Attorney

C. PURPOSE OF MEETING:

Mayor Copenhaver reported the meeting was called by Councilmen Jester and Keinard for the purpose of discussing items listed on the agenda. Mayor Copenhaver stated meeting procedures will be followed.

1. Request – Mayor and Councilman Schulte recuse themselves from Item #2

Jester suggested item 1 and item 9 be deleted from the agenda.

Schulte stated it was reported in a local newspaper he would be recusing himself from discussion and that in fact this was an error. Mayor Copenhaver stated the same was true for himself as well.

2. Agreement – Depot Management

Jester stated he will not be making a motion to override the Mayor's veto and, instead, at the conclusion of comments and discussion he will be making a different motion concerning management of the depot.

Jester stated he hopes it has not escaped notice from all citizens that during the same week we are writing letters to the editor and haggling over the depot, there are great articles in the newspaper regarding the future and growth of Braselton and the plans they are making, and at the same time four of our businesses have closed since the first of this month. Jester added he thinks it is ironic that we sometimes are unable to focus on those kinds of things. Jester stated he does

not feel the depot is the most important thing this council has to focus on; it is a special place to our older sweet citizens like Mr. Freeman, who probably has memories of playing around railroad tracks and running around the depot when he was a child. For those whom worked on the depot when the city got a grant, Jester noted the council knows what a special place the depot holds for them. Jester reported now the depot is our greatest draw and asset to make positive things happen for our city. Jester admitted he is fully responsible for the failed effort to have an agreement approved by council last month and his intentions were for the right reasons, but it could have been handled in a better way. In regard to Schulte and Mayor Copenhaver being left out of the discussions, Jester stated he was trying to avoid the predictable and inevitable reaction that is evidenced by attendance at this meeting. The reason Schulte and Mayor Copenhaver were not included is because the Mayor is married to the President of the Hoschton Women's Civic Club and the women's club members are very outspoken about how they feel about looking out after the depot and Schulte is married to a very outspoken member of the organization and her feelings and their feelings are no secret. Jester stated he feels it would be a challenge for either of them to be unbiased or impartial, yet perhaps leaving them out of earlier discussion regarding this issue was not the smart thing to do and no matter what the issue may be in the future, this will not happen again.

Jester expressed an apology to Ron and Elizabeth for getting them into this mess. These people have moved their business here, they are good people and they came forward with an idea that was embraced by Jester and others and they have been vilified for it. The parade of people, from the Mayor, down to others, going to see them and doing everything from offering them to join the women's club to whatever else may have been said, made them feel very uneasy about their business and this situation.

Jester stated this is not a contest about who cares more about the depot, but rather about how to maximize the greatest single asset in our little town to draw patrons into our city and help our businesses truly grow. Jester stated he appreciates the emotion and strong feelings, but perhaps there is a difference of opinion regarding what is best for the city.

Schulte stated he feels he is fully capable of making up his own mind and voicing that decision.

Donaldson stated, in accordance with city ordinances there has to be a written response for the reason for the veto. City Attorney stated the charter provides for veto of ordinances, and in order to veto an ordinance, the Mayor must provide a written reason, yet there is another provision that outlines the powers of the Mayor. By ordinance, council has empowered the Mayor to not only veto ordinances but also veto resolutions and orders and this would fall within that provision since this is considered a resolution and not an ordinance and that provision does not require written reason for the veto.

Upon request by Donaldson for a verbal reason for the veto, Mayor Copenhaver stated his reason for the veto was because he does not feel this was in the best interest of the city and the council should look at all options, from city promoting the depot, the city hiring a management company to manage the depot under Mayor/Council direction, leasing the depot to a management company, selling the property, or implementing a city tax. Mayor Copenhaver stated his point was that all options should be looked at and ensures the best option for the citizens is selected.

Motion was made by Jester as follows: 1) that the city advertise a request for proposals from August 20 until noon on September 4 to receive bid proposals from professional management companies to manage, operate and maintain the depot, 2) that the proposal already on-hand by Yesway Enterprises be included, revised or updated during the bid period as they wish; and 3) that a joint public works and fiscal affairs committee meeting convene at 1 p.m. on September 4 to review, reach a consensus and make a recommendation at the regular meeting that same evening from which a contract may be developed by the City Attorney, seconded by Keinard.

Edna Sell stated she understood the motion to only include certain groups and asked if there is any reason why those with an interest in the depot could operate the depot? City Attorney stated this is a call for an RFP and if a consortium would like to put together and RFP, there would be no reason why they could not submit one if they are able to meet the insurance requirements for specific dollar amount liability coverage and/or have the ability to be bonded.

City Attorney Mitchell stated it is within Mayor and Council's discretion as to what to do with any request received. They can accept one, reject them all, or negotiate an agreement.

Richard Shepherd recommended City Council establish guidelines for the RFP in order to ensure all quotes meet requirements of the city.

In regard to questions regarding binding the city for more than one year, City Attorney Mitchell stated the city can not bind itself for more than one year and one of the contractual requirements will be that the bidder can be bonded, insured, and hold a current business license.

JoNan Warwick questioned whether it is possible for the depot to remain under management by the city. Mayor Copenhaver stated he feels it should be an option that is considered.

In regard to length of the agreement, Jester stated council should keep in mind that the company awarded the bid will be making an investment on marketing and promoting the depot and the council should be careful about not allowing enough time for that process to operate – it may

take 6 months before returns will begin to come in. Kaye Schulte agreed, but stated she feels if six months down the road we are unhappy with the agreement, we would still be bound to the lease. City Attorney Mitchell stated a termination clause will included in the agreement.

Scott Butler recommended council be mindful of other businesses with strip shopping centers by offering a business free rent for 6 months and \$100.00 per month thereafter. People who have invested in the community and built shopping centers may feel the city is undermining their ability to rent space. In response, Donaldson clarified the 6 months free rent. The original agreement states 100% of the expenses and 10% revenue for all twelve months and then for months 7 thru 12 the city would receive \$100.00 per month rent, and therefore for the full 12 months the city is guaranteed the expenses will be paid.

Jester stated, if the agreement was not drawn up as originally presented, city would continue to pay all expenses. Scott Butler noted that expense for watering park sod should not be included.

Dianne Blankenship asked, if this council enters into a contract, is a new council bound by the contract. City Attorney Mitchell replied the city would be obligated for the one year period of the contract.

Edna Sell asked if thought has been given to protection of the historical significance of the building, such as covering the floor for ballroom dancing. Donaldson asked how many of the boards in the freight room floor are original and how many have been replaced. Ms. Sell stated that part of the floor does have the original boards and therefore still carries a historical look.

Elizabeth Walden asked why it is so important to make money off of the depot. Jester responded that during a recent budget meeting, income was reduced by about \$400,000 out of the annual goal of reaching \$600,000 and that means the little things that previously were not important now carry much more significance.

MaryAnn Kenerly asked if donations to keep up the depot could be considered and if \$10,000 would be enough to keep up the depot. Donaldson and Mayor Copenhaver responded this could certainly be helpful.

For clarification purposes, Ron Flowers stated it is not his intend to make money, but to attract people into the city for the sake of the city. Mr. Flowers added he was approached about this venture.

Keinard stated most people present are not aware of the city's expenses or income and further that most people do not realize the city does not have a property tax. The city operates

through water and sewer payments, franchise fees, and grants for the most part. Keinard stated the council attempts to operate by a balance budget.

Holcomb stated the city once had a property tax and the council may have to consider property taxes once again.

Schulte stated he is not satisfied with discussion on this topic, adding he feels the decision is being rushed into, council has overlooked the option of the city managing the depot and this should be done for one year and if it fails look to a commercial company for assistance; citizens have not been able to make their wishes known, and he has been faced this situation for 10 years during his lifetime and he would like to gather business owners together and put together a bid package and use them as a resource to craft the RFP. Discussion regarding management of the depot in-house.

In regard to a similar situation, Donaldson reminded council of a time earlier this year when a group came before council and stated they feel they could plan and manage the yearly fall festival events. Council did not hold extension public hearings or public meetings; council agreed to give this group a chance to make a go of it. We do not have a contract and 100% of the expenses are paid by the fall festival committee. The city council took a chance and turned the event over to the group and this year's event promises to be the biggest and best and most well put together and thought out fall festival in history because the city turned over something they did not have dedicated time and resources to manage.

Schulte asked why some council members feel this can not be done in-house. Jester responded the council has waited three months to get a banner made to place on the side of the depot that reads "Available for your next party" and that banner hasn't hung on the depot yet. Therefore, Jester added, he does not think the city has the competency, time, or the personnel resources to do what the council envision needs to be done. If Wistar writes a program, staff will still have to carry forward with such responsibilities as having to inspect and unlock the depot when necessary.

Keinard stated during the time he has served in government, he has never known a government entity that manages such a program as this to ever make a profit.

Jan Baker asked if council would consider turning the depot over to a patrons group, adding this could at a minimum be a temporary solution because this is currently causing discord among the city council.

Violet Evans stated it appears we have citizens concerned about the depot and recommended formation of a foundation or some other option, such as allowing the city to manage the depot first and go from there.

Hoschton City Council
Call Meeting
August 17, 2007
Page 6 of 9

In light of comments made by the citizens, Donaldson recommended an amendment to the original motion to also consider viable proposals for depot solutions, which could include private donations, patron boards, citizen committee groups, or management by third parties. Green stated if this is done, there will have to be milestone dates placed within the proposal in order to be a valid proposal. Richard Shepherd recommended council establish guidelines in the RFP.

Mark Williams stated he feels direction should be given first before the RFP proposals are requested due to the numerous opinions and options to be considered.

Ken Hensley stated he feels, given the opportunity, businesses within the community would be willing to assist and come up with the total amount needed to off-set the yearly expenses of the depot.

Keinard stated in order to increase growth of businesses and make the town more well known by bringing people in from other parts of the state, it is important to market the depot, therefore it is not just the expenses of the depot that need to be considered.

Ron Johnson stated he is trying to understand why the proposal was not advertised, why the council moved so fast on this issue, and why this meeting was scheduled for 4:00 in the afternoon on a Friday when most people can't attend. Mr. Johnson also asked if the City Attorney reviewed the contract, to which City Attorney Mitchell responded there is not an agreement at this time.

Tony Woodall asked for clarification regarding the timeframe for proposals to be received. Jester responded the intent of the motion is to advertise for RFP's beginning Monday and to prepare the specs from there, noting council will look to the City Attorney for direction on some of the things the council wishes to accomplish in regard to the city's profitability, care of the depot, and qualifications of the applicants.

Kaye Schulte pointed out that the council has been given several good suggestions and asked if some of the ideas can be incorporated, understanding that a professional management company may be needed sometime in the future, but to get the city over this hump, maybe look to citizens and businesses for assistance.

Keinard withdrew his second to the original motion.

Motion was made by Jester to amend his original motion as follows: 1) advertise for proposals from August 20 thru noon on September 4 to receive proposals from professional companies, private entities, patron groups, or other caring third parties to manage, operate, Hoschton City Council
Call Meeting
August 17, 2007
Page 7 of 9

and maintain the depot, 2) that the proposal already on-hand by Yesway Enterprises be included, revised or updated during the bid period as they wish; and 3) a joint public works and fiscal affairs committee meeting convene at 1 p.m. on September 4 to review, reach a consensus, and make a recommendation at the regular meeting that same evening from which a contract can be developed by the city attorney, motion was seconded by Keinard.

Richard Shepherd stated he feels the timeframe is not adequate to gather sufficient RFP's. Ken Hensley agreed and recommended council give applicants at least 30 days to place their bids.

Keinard withdrew his second.

Motion was made by Jester to amend his previous motion to advertise for proposals from August 20 thru noon on September 24 and further to change the date of the joint fiscal affairs committee and public works committee to September 24 at 1:00 p.m. with remainder of the motion to remain as stated, seconded by Keinard.

Motion carried with all approving.

3. Other Property Contracts

Agenda item removed at the request of Councilman Jester.

4. Depot Expenses

Agenda item removed at the request of Councilman Jester.

5. Gratuitous Use of City Property

Jester requested this item be moved to the agenda for the next regular council meeting.

6. Conflicts of Interest

7. Ethics

In regard to items 6 and 7, Jester requested the special committee the council has on ethics convene to review the conflict of interest and ethics policies, procedures, regulations, and ordinances and identify areas they may deem in need of improvement and strengthening. Jester

further recommended this committee report and make recommendations at the October regular meeting.

Hoschton City Council
Call Meeting
August 17, 2007
Page 8 of 9

Donaldson stated the ethics commission is comprised of John Schulte, Jim Keinard, and Deborah Donaldson and they have agreed to meet September 6, 5:00 p.m. and the meeting is open to the public.

Keinard stated the City of Hoschton is a certified code of ethics city and as a certified code of ethics city the council operates under a code of ethics. According to the code it is essential to the proper administration and operation of the City of Hoschton, the Mayor and City Council be, and give the appearance of being independent and impartial, that public office not be used for private gain, and that there be public confidence in the integrity of city officials. The Hoschton Mayor and City Council finds that the public interest requires that they protect against such conflict of interest by establishing appropriate ethical standards with respect to the conduct of city officials in situations where a conflict may arrive. Keinard stated following the passage of a motion to enter into an agreement for professional management of the depot, it is believed a city official tried to intimidate individuals because of the action of the committee. Council will be looking at this compliant, as well as the code of ethics, to determine if changes are needed. Keinard added council members have to operate in ethical standards and conduct city business for the public and for that reason there will be some recommendations that will be addressed in the upcoming ethics committee meeting.

8. City Software – Licenses

Jester noted the fiscal affairs committee reviewed, in October and again in February, the status of computer programs and software issues and now it is understood there may be problems in these areas. Jester asked that this item be placed on the September agenda and staff be prepared to speak to this issue in terms of status of city programs and software.

9. Scope of Staff Responsibility and Accountability

Item deleted from the agenda at the request of Jester.

City Attorney Mitchell, since he has been charged with outlining what the RFP will include, asked permission to outline what items will need to be included in the RFP. The proposals should include the standard terms of the agreement, the purpose for which the agreement is being entered into, description of the facility for which the group will have access to, term of the agreement, provisions regarding termination and renewal, financial aspects, such as rent and utilities, what the group intends to do in regard to marketing efforts, what they propose in the way of use of the facility, repairs, operation, and maintenance of the facility, proposal regarding insurance, terms of

the city's use of the facility, including providing free use and how they intend to compensate the city in terms of utilities, etc. and also making

Hoschton City Council
Call Meeting
August 17, 2007
Page 9 of 9

note that elections will be held at that facility, how they intend to address signage on the property, how they intend to address previous reservations of other parties, and how they will address indemnification of the city and city employees, certification that they will comply with all applicable laws, ordinances and regulations.

Mayor Copenhaver stated the RFP will be placed on the city website when completed.

In regard to furnishings in the depot, Holcomb stated he would like to give the Hoschton Women's Civic Club until the September meeting to either donate or remove the chairs, tables, and any other furnishings belonging to the organization from the depot due to liability arising from use of these items.

D. ADJOURNMENT

There being no further business, motion was made by Schulte to adjourn, seconded by Green, Motion carried with all approving. Meeting adjourned at 5:25 p.m.

Respectfully submitted,

Cindy R. Edge
City Clerk

Approved this _____ day of _____, 2007.

Mayor

Richard Green, Post 1

Ronald Holcomb, Post 4

Jim Jester, Post 2

Deborah Donaldson, Post 5

John Schulte, Post 3

James Keinard, Post 6