

HOSCHTON CITY COUNCIL

Regular Meeting Minutes

April 6, 2009, 7:00 p.m.

Hoschton City Hall

A regular meeting of the Hoschton City Council was held April 6, 2009 at 7:00 p.m. in Hoschton City Hall. Present were Mayor Bill Copenhaver, Council Members Richard Green, Jim Jester, John Schulte, Richard Shepherd, Tom Walden, Theresa Kenerly. Also present were City Clerk Kristen Mahan, City Planner Wistar Harmon, Police Chief Dave Hill and City Attorney Thomas Mitchell. Mayor Copenhaver called the meeting to order at 7:03 p.m.

ORDER OF BUSINESS

REVIEW MINUTES OF PREVIOUS MEETINGS:

COUNCIL MEMBER SCHULTE MADE A MOTION, SECONDED BY COUNCIL MEMBER GREEN, TO APPROVE MINUTES OF MARCH 2, 2009 REGULAR COUNCIL MEETING.

The motion carried by a 6 - 0 vote with all members present in favor.

APPROVAL OF AGENDA: No discussion.

PETITIONS, COMMUNICATIONS, RECOGNITION AND AWARDS:

Presentation to Mayor and City Council of Hoschton's Congressional Record of the Resolution on Hoschton's scarecrows by Jordan Chinouth of Congressman Dr. Paul Broun's Office. A copy of the Resolution is included and made a part of the Minutes.

Council member Schulte asked Mr. Chinouth that the accomplishment be recognized with signage on I85 to benefit not just Hoschton but this entire area. Schulte stated that it's interesting that the North bound sign on I85 does reference Hoschton but the South bound sign does not. Chinouth stated he would check into that and let the Mayor know what he finds out after talking with Dr. Broun and investigating. Chinouth also said his office is here to serve us and let him know of anything we ever need.

PUBLIC INPUT/DISCUSSION:

Kelly Gary, 22 Hickory Walk, addressed Tom Walden asking if he was going to address the budget timeline questions.

Councilman Walden responded he would.

REPORTS OF STANDING COMMITTEES:

Water, Waste and Environmental Services (WWES)

Council member Green stated the report he gave last Thursday night still stands but since that time we have advertised two projects on our website. We have a request for proposals dated the 3rd of April for our pond abandonment project at WWTP and tank conversion project, sealed proposals will be received until 2PM on the 1st of May. Green reminded he mentioned Thursday that our Jackson Park well request for proposals to plumb the well, build the well house and connect the well went on the website on the 2nd of April and sealed proposals for that project will be received until 2PM on the 30th of April.

Fiscal Resources

Council member Walden reported no meeting. Walden stated each Council member has been provided with the 1st quarter budget tracking report and is now available.

Walden said he would address Kelley Gary's request for changes to the fiscal year 2010 budget calendar. Walden stated Gary request two of the three meetings be held in the evening rather than morning and Walden said there is no problem with that. Walden said Gary asked the evening meeting start at 7:00 rather than 6:30. Walden re-read the statute and it states between 6 and 7 inclusive which means it can be at 7 so there is no problem with that. Gary asked about the called meeting to adopt the FY 2010 budget and set millage rates. Walden explained the reason for the called meeting is that if Hoschton waited until the Regular meeting, which is September 10th, we would not have time to get the millage rate to Jackson County for them to bill this. If the city doesn't have a millage rate then the budget can be adopted at the regular meeting however if there is a millage rate set then it has to be on the 24th because that's the latest Hoschton can get the millage rate to Jackson County for billing. Walden said the meeting is still set for the 24th but subject to be moved if the city adopts a budget with no millage

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rate. Walden said the last item asked was to hold a referendum on setting the millage rate, whether or not there should be a millage rate, or a millage increase and Gary wanting to change the Charter to make that a requirement so that any time that the millage rate is increased at the city you would have to hold a referendum on it. Walden talked with the city attorney who said we cannot do that and based on legal advice we can't but Gary may speak with the city attorney if he would like.

Kelley Gary, 22 Hickory Walk, requested an explanation from the city attorney for why you can't change the Charter.

City Attorney Thomas Mitchell clarified we can but it can't be done by Home Rule Ordinance it has to be done by the Legislature. There are certain limitations in cities Home Rule powers. The statute with regard to Home Rule Powers of cities has a list of certain areas that cities cannot exercise Home Rule Power in but there's also a catch-all which says that it does not extend to the following matters being in that list or any other matters which the general assembly by general law has preempted or may hereafter preempt by the general law. Mitchell said his opinion to the provisions in the statute with regard to setting millage rates which set forth very specific processes and procedures would seem to fall within what the cases say preempts the city from doing it by Home Rule Ordinance but that's not to say we can't ask the Legislature to adopt a new Charter for us that contains a provision and said he commented last week the Legislature seems open to these referenda having put the provisions in Charters for some cities.

Kelley Gary, 22 Hickory Walk, asked if City Council would be willing to ask our State Representative and State Senator to introduce legislation to that effect if they go back into special session. Gary also asked if Council considered having a non-binding straw vote referendum. Gary then asked city attorney Mitchell if there would be any reason why citizens wouldn't be allowed to file a petition. Mitchell responded that it still could not be done by Home Rule Ordinance.

Deb Donaldson, Quail Crossing, asked if there is anything in our Charter that specifically prohibits the city from placing it on the ballot.

City Attorney Mitchell stated there is nothing specific that prohibits us from placing it on the ballot and had talked briefly Thursday night that there are a couple Attorney Generals opinions that suggest that unless the statute specifically authorizes referendum vote it's not an appropriate use of city resources. Mitchell stated there is no case that says you can't challenge it but advises against it.

Kelley Gary, 22 Hickory Walk, asked Mitchell which case or section code he is relying on.

City attorney Mitchell stated the limitations on Home Rule for municipal corporations is 36-35-6, provision in the Constitution is Article 3, Section 6, Paragraph 4 A, Franklin County versus Fieldale Farms Corp.

Gary said he'd like to see some discussion from the city.

Council member Kenerly stated she was not going against what our city attorney advises.

Council member Walden stated the city pays the city attorney for his legal advice and recommends against it and unless someone proves him wrong he isn't willing to spend city resources on the referendum.

Erma Denning, Deer Creek, addressed Council Member Kenerly asking if the city hasn't decided to have a millage rate yet what steps have you taken in the last five plus months since you've heard from your citizens the last time the last go around of this that we said nope, what have you done to curb expenses significantly, what have you done, would you like to share that?

Mayor Copenhaver responded that by looking at the budget report available on the website or at city hall you will see expenses have been curbed and we are working on that. Copenhaver also stated Council will take under advisement what to do about the Charter and we will move forward. Copenhaver addressed Council member Walden if he had anything further.

Council member Walden said he had nothing further. Walden said his concern with regard to changing the Charter is not having enough time to get everything done that is required for changes to the existing Charter.

Public Works and Properties

Council member Jester stated he had commented Thursday the Creekside Park lack of progress by Jackson County and nothing has changed. Jester restated his comments from Thursday regarding damage to the streets from the heavy rains a couple weeks ago are underway. Jester mentioned the crosswalk at the Depot has been approved and thinks the city is has made plans to move ahead with that in short order. Jester stated having nothing further new to add.

Public Safety

Council member Shepherd announced having nothing new to report from his report on Thursday night.

Planning & Zoning (P&Z)

Council member Kenerly reported the Committee met today to review three different companies that we have contacted and tried to work with on Comprehensive Plan due next year.

Kenerly reported the need to table the Sign Ordinance recommendation in order to establish new parameters.

Business, Commerce, and Economic Development

Council member Schulte reported having mistakenly referred to the wrong high school last Thursday and that it is Jefferson High School for Oklahoma.

Council member Schulte reported the businesses on City Square have been contacted since last Thursday regarding the street closure for Art Trax.

REPORTS OF SPECIAL COMMITTEES AND COMMISSIONS:

Dianne Blankenship, Hoschton Historical Commission Chair, reminded Mayor and Council of Bingo on May 2, 2009 from 5PM until 8PM at the Hoschton Depot.

ADMINISTRATIVE ACTIVITY REPORT:

Mayor Copenhaver presented the March 2009 Administrative Activity Report which is included and made a part of the Minutes.

Deb Donaldson, Hoschton, addressed Council asking if the city will post transactions to the city website and if the tracking budget can be posted monthly.

Council member Tom Walden responded the tracking budget would be posted quarterly when they are provided to City Council.

UNFINISHED OR TABLED BUSINESS: None.

NEW BUSINESS:

Current and past due 2009 Business Licenses

Mayor Copenhaver reminded that no business licenses were considered past due until after 15, 2009. Copenhaver reported 11 businesses and 12 home occupations had not yet renewed their licenses.

Council member Jester asked what will happen on April 16th. Jester also asked if the city may list in the news papers those delinquent businesses as of April 16th.

Council member Walden stated he would personally notify the businesses and has already personally delivered renewal application.

Depot and City Square streets closure request for Art Trax '09

COUNCIL MEMBER KENERLY MADE A MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO ALLOW CLOSING OF CITY SQUARE AND DEPOT STREETS ON APRIL 18, 2009.

The motion carried by a 6 - 0 vote with all members present in favor.

Council member Jester stated he's supportive of this decision because concerns of the businesses have been addressed.

Sale of Pall Membrane System

Council member Green recommended approving the sell of the Pall Membrane System in the amount of \$95,000 to Meriweather County and depositing the money into a capital projects fund.

COUNCIL MEMBER GREEN MADE A MOTION, SECONDED BY COUNCIL MEMBER WALDEN, TO ALLOW THE MAYOR TO SIGN AN AGREEMENT TO SELL THE PALL MEMBRANE SYSTEM.

The motion carried by a 6 - 0 vote with all members present in favor.

Review Sign Ordinance

Council member Kenerly announced Planning & Zoning Committee had met April 20th and 23rd to discuss the existing sign Ordinance and would present amendment proposals once the Committee finalized recommendations.

Council member Jester agreed the necessity of looking at the sign Ordinance to update, streamline, and amend.

Amend City Solicitor Ordinance, Section 3-602: Item 1

COUNCIL MEMBER KENERLY MADE A MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO APPROVE AMENDING SECTION 3-602, ITEM 1.

The motion carried by a 6 - 0 vote with all members present in favor.

City Solicitor position vacancy as of 4/07/2009

COUNCIL MEMBER SHEPHERD MADE A MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO APPOINT AMY CARTER TO THE CITY SOLICITOR POSITION EFFECTIVE APRIL 7, 2009.

The motion carried by a 6 - 0 vote with all members present in favor.

Consideration of COPS Grant for two Officers

Council member Shepherd stated the Chief would draft a letter to apply for the grant which would be emailed to the Council by Mayor.

Council member Green stated the grant seems to obligate the city to do something that may not be financially possible and asked what happens if the city can't afford to pay in order to retain the positions.

Chief Dave Hill reported the submission requirement deadline is April 10th but doesn't know when communication of approval or denial would be expected. Chief stated the amount of the grant is \$364,000.

City Square Property – Advisory Committee Recommendation

Council member Jester recommends creating an Advisory Board Committee made up of citizens and market knowledgeable experts to study the city property for future land use with Jan Baker Chair and establish the study period as 12 months. Jester recommended naming the City Clerk as the primary contact. Jester further stated the recommendations for City Clerk responsibilities to include sharing any information that comes out of advisory meetings with the Business and Economic Development Commission.

Council member Schulte requested the Chair of this committee consider a member of the newly formed committee be from the Business and Economic Development Commission.

COUNCIL MEMBER JESTER MADE A MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO ESTABLISH A CITY SQUARE PROPERTY ADVISORY COMMITTEE.

The motion carried by a 6 - 0 vote with all members present in favor.

Resolution to Implement Condition 10 of Horizon Rezoning, June 2005

City Attorney Mitchell reported receiving a letter from John Stell as attorney on behalf of the Gary's. The letter is included herein and made a part of the Minutes.

COUNCIL MEMBER KENERLY MADE A MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO ADOPT THE RESOLUTION AS READ BY CITY ATTORNEY THOMAS MITCHELL.

The motion carried by a 6 - 0 vote with all members present in favor.

CLOSING COMMENTS: None.

EXECUTIVE SESSION:

Council Member Walden makes the following motion:

- (1) That the Mayor and Council now enter into closed session as allowed by O.C.G.A. § 50-14-4 and pursuant to advice by the City Attorney, for the purpose of discussing the following:

Pending Litigation

- (2) That this body, in open session, adopt a Resolution authorizing and directing the Mayor or presiding officer to execute an Affidavit in compliance with O.C.G.A. § 50-14-4, and that this body ratify the actions of the council taken in closed session and confirm that the subject matters of the closed session were within exceptions permitted by the open meetings law, said Resolution to be in the form as attached hereto.

COUNCIL MEMBER KENERLY MADE A MOTION, SECONDED BY COUNCIL MEMBER WALDEN, TO ENTER INTO EXECUTIVE SESSION.

The motion carried by a 6 - 0 vote with all members present in favor.

COUNCIL MEMBER WALDEN MADE A MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO LEAVE EXECUTIVE SESSION.

The motion carried by a 6 - 0 vote with all members present in favor.

ADJOURNMENT: Meeting adjourned at 8:30 p.m.

BEING NO FURTHER BUSINESS, COUNCIL MEMBER SCHULTE MADE A MOTION, SECONDED BY COUNCIL MEMBER WALDEN, TO ADJOURN.

Motion carried by a 6 - 0 vote with all members present in favor.

ADJOURNMENT:

THERE BEING NO FURTHER BUSINESS, MOTION MADE BY COUNCIL MEMBER KENERLY, SECONDED BY COUNCIL MEMBER GREEN TO ADJOURN.

Motion carried by a 6 - 0 vote with all members present in favor.

Respectfully submitted,

Kristen A. Mahan, City Clerk

Manner of Addressing Council. No member, while the City Council is in session shall speak on any subject unless recognized by the presiding officer. Every speaker shall address the chair, and no member shall interrupt anyone who is speaking, except to call him to order or for explanation.

Limitations on Addressing City Council. Any person not a member of City Council who desires to address the City Council shall first secure the permission of the presiding officer, and then shall step up in front of the council, give his name and address in an audible tone of voice for the record, and direct his remarks to the City Council as a body rather than to any particular member, limiting such remarks to a reasonable time (**2 minutes per person/ 5 minutes per topic**) unless additional time is granted by City Council. Permission to speak is at the discretion of the Mayor and City Council. Persons wishing to bring subjects to attention of the City Council may do so either by providing the City Clerk or the Mayor with a written petition for presentation to the City Council at its regular meeting or by contacting the Mayor or any City Council member informally

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