

# HOSCHTON CITY COUNCIL

## Regular Meeting Minutes

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

Hoschton City Hall

A regular meeting of the Hoschton City Council was held July 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 and City Attorney Thomas Mitchell. Mayor Copenhaver called the meeting to order at 7:01 p.m.

### **ORDER OF BUSINESS**

#### **REVIEW MINUTES OF PREVIOUS MEETINGS**

COUNCIL MEMBER GREEN MADE A MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO APPROVE MINUTES OF MAY 13, 2009 CALLED COUNCIL MEETING; JUNE 15, 2009 CALLED COUNCIL MEETING; AND JUNE 1, 2009 REGULAR MEETING.

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

#### **APPROVAL OF AGENDA**

Deletion by Councilman Tom Walden of New Business Item number 5, being Water and Sewer Rate Adjustments, based on further analysis and rising water usage a rate adjustment is not needed.

Addition by Councilman Jim Jester of New Business Item number 5 being Revision and Update of City Charter.

#### **PETITIONS, COMMUNICATIONS, RECOGNITION AND AWARDS**

#### **REPORTS OF STANDING COMMITTEES:**

##### **Water, Waste and Environmental Services**

Councilman Richard Green reported pond abandonment phase I is approximately 70 percent complete; White Street well new 30 horse pump and wiring installation is complete and upon permit approval capability of pumping 165 gallons per minute rather than 95; SCADA Stimulus Project application has been submitted and GEFA Board will meet July 21<sup>st</sup> for approval of projects for final funding and two prospective bidders have been interviewed. Green reported the Wellhead Protection Ordinance is a new business item and will be discussed during that time. Green reported that the recent bubbles in the drinking water was caused by cold temperature of the well water and that WWTP Operator, Johnny Hill, reported and the State verified it is a harmless phenomenon.

##### **Fiscal Resources**

Councilman Tom Walden reported nothing to add to Thursday report.

##### **Public Works and Properties**

Councilman Jim Jester reported having met several times with Police Chief Howell to discuss the need to secure the impound area for vehicles which has now been accomplished and the need for the stop sign at Cabin Drive and The Village still needing to be moved out due to growth of shrubbery covering the sign. Jester met with Mr. Michael Holly in Serenity to discuss his easement problem and does not have a recommendation at this time but will be putting one together after holding a committee meeting in the next two weeks. Jester reported completion of two budget meetings he was assigned to accomplish, with Public Works and Public Safety, and would prepare then provide a summary report for Council. Jester reported he also met with Chief Howell to review the speed limits and asks what happens next. Jester further reported the finalization of the Hoschton City Park agreement with the County and Board of Education.

##### **Public Safety**

Councilman Richard Shepherd reported nothing to add to Thursday report.

##### **Planning & Zoning**

Councilwoman Theresa Kenerly reported no June committee meeting. Kenerly reported the P&Z Commission did meet and a report would be presented later by City Planner Wistar Harmon.

##### **Business, Commerce, and Economic Development**

Councilman John Schulte reported no June meeting. Schulte announced Prudential Real Estate changed its Representative for the new Creekside Development from Chuck Clausen to Gary Lawson.

## **ADMINISTRATIVE ACTIVITY REPORT**

Mayor Copenhaver presented the June report which is included and made a part of the minutes.

## **UNFINISHED OR TABLED BUSINESS**

### **Home Rule Petition**

City Attorney Thomas Mitchell read the 3 page summary finding conclusions aloud that, pursuant to O.C.G.A Section 36-35-3Z2B, the governing authority has determined the petition is not valid. A copy of the summary is included herein and made a part of the minutes.

### **COUNCIL MEMBER KENERLY MADE A MOTION, SECONDED BY COUNCIL MEMBER WALDEN, TO APPROVE AND PUBLICIZE THE FINDINGS OF THE PETITION.**

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

Councilwoman Kenerly addressed citizens stating the efforts of the citizens have been heard and wishes there was a compromise but the existing loans dictate the finding and that Council doesn't want a tax either.

Councilman Schulte stated if the motion was different than as presented then the city would be voting against State law and violate the GEFA loans established in 2002.

Councilman Jester restated a summary of comments by city attorney that the proposed Amendment is not a valid exercise of the Home Rule authority as delegated by General Assembly, the proposed Ordinance violates limitations on Home Rule as specified by General Assembly in certain citations as mentioned, and thirdly that the Amendment would, if affirmed, cause the city to be in violation of two GEFA loan agreements. Thomas Mitchell confirmed Jeter's summary.

Councilman Walden asked Thomas Mitchell what the ramifications would be by GEFA if determined Hoschton was in violation. Mitchell stated, like any other lender, they may sue the borrower for default and demand immediate payment of the balance in full.

### Public Comments:

William Pendergast, Village of Hoschton, stated that statutes notwithstanding, Council needs to recognize what the people of Hoschton don't want.

Kelly Gary, 22 Hickory Walk, asked Thomas Mitchell is Attorney General had been contacted and how long it would take. Gary asked if Council had any objection other than possible violation of the home rule powers. Gary asked what specific general law the General Assembly has made and addresses in the voting on the millage rate.

Deb Donaldson, Quail Crossing, asked if GEFA can only step in to exert their authority and require the city to levy taxes if the city is in default of the loans and how close is the city to defaulting on the loans. Councilman Walden stated the city pledged its taxing authority and is in default if that is taken away whether the city is in default of payment or not. Thomas Mitchell confirmed the city is in default if the taxing authority is removed.

Doug Easter, 49 Butternut Walk in The Village, asked for clarification regarding the Johns Creek Crossing Charter allowed for limits on the millage rate.

Erma Denney, Hoschton, proposed that at the same time the city publishes they have chosen to invalidate the petition that Council takes the opportunity to cancel the three budget meetings proposed for next month to discuss the proposed tax increase. Denney stated Council has their answer and there is no further room for debate.

Carolyn Cobb, Village of Hoschton, addressed Council stating that not all the people feel the same way in the room and that she is amazed the city doesn't have a tax and wonders where the money is supposed to come from if taxes aren't a source of revenue.

David Zieger, Hoschton on Peachtree Road, addressed Mayor that his concern was about the proposal to raise water rates for payment of debts. Mayor Copenhaver stated that is not the purpose of the meeting.

Kelly Gary, 22 Hickory Walk, asked to clarify with City Attorney if he realized the petition submitted has the exact same language as the Johns Creek Charter. Mitchell stated it does not make a difference with regard to the petition.

William Pendergast, Hoschton, asked Mayor if Council would give a show of hands for those that understand what the citizens want by way of the petition. Mayor Copenhaver responded no.

Scott Butler, Deer Creek Trail, since Mayor and Council are doing away with the citizen's ability to self govern is there any recourse for citizens to take against former and/or existing Mayor and Council for voting to get the citizens in this debt. Per city attorney Thomas Mitchell, an opinion would not be offered on that tonight.

## **NEW BUSINESS**

### **City Square and Depot Street Closures Sept. 25 – 27, 2009 for Fall Festival**

Mayor Copenhaver recommended closing City Square and Depot for the Fall Festival from approximately 6AM Friday until 5PM on Sunday. Letters to all business on the Square will be hand delivered for notification purposes.

COUNCIL MEMBER KENERLY MADE A MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO APPROVE STREET CLOSURES FOR FALL FESTIVAL.

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

### **Ratify Election Qualifying Dates and Times, Three (3) consecutive dates being 8/31, 9/1 and 9/2 from 8:30AM until 4:30PM**

Mayor Copenhaver stated the dates and times for recommended ratification.

COUNCIL MEMBER KENERLY MADE A MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO RATIFY THE ELECTION QUALIFYING DATES AND TIMES.

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

### **Hoschton Park Agreement with Jackson County and Jackson County Board of Education**

Mayor Copenhaver stated all Council had an opportunity to review the Hoschton Park agreement and recommended authorization of Mayor to sign the agreement.

COUNCIL MEMBER WALDEN MADE A MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO AUHTORIZE MAYOR TO SIGN THE HOSCHTON PARK AGREEMENT WITH JACKSON COUNTY AND JACKSON COUNTY BOARD OF EDUCATION.

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

### **Wellhead Protection Ordinance**

Councilman Richard Green reported that EPD notified Hoschton that the city was required to have a Wellhead Protection Ordinance to protect the White Street Well. Green said they met with EPD for further direction and since that time Wistar Harmon has completed a Wellhead Protection Ordinance applicable only to the White Street Well which has been approved by the Planning & Zoning Commission and advertized for public comment. Green asked Harmon to briefly explain.

City Planner Wistar Harmon reviewed the three step process which basically involves adopting three Ordinances with one being the Georgia EPD's Wellhead Protection Plan adopted by reference. Harmon further explained minor Amendments that would be sent to EPD for final approval.

Thomas Mitchell announced the Council may waive first read and adopt based on public notice was advertized and public meeting held.

Randy Denney, Hoschton Hunters Way, asked if the warehouse behind the church creates an issue and is in keeping with OSHA standards. Harmon said the business is on the list and is monitored.

Doug Easter, 49 Butternut Walk, asked if the 2<sup>nd</sup> well is not required to be monitored and how the city proposed monitoring. Wistar stated it would require diligence upon city hall and issues as notified by citizens to city hall.

COUNCIL MEMBER GREEN MADE A MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO AMEND CITY CODE PERTAINING TO SETTING UP WELLHEAD PROTECTION ZONE, INCORPORATE BY REFERENCE THE EPD WELLHEAD PROTECTION PLAN, AND AMEND ZONING ORDINANCE FOR WELLHEAD PROTECTION ZONE.

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

### **City Charter Revision and Update**

Councilman Jester recommends the need to update the Charter and the time is now for accomplishment within two to three months. Jester further recommends creating a committee to completely revise the Charter, taking into account all issues Council is aware of and has been advised of by GMA, and accomplish within three months. Jester stated Thomas Mitchell prepared a draft in 2008 of a good base model of a new city charter.

COUNCIL MEMBER JESTER MADE A MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO AGREE TO TAKE ON THE TASK OF REVISING AND UPDATING THE CITY CHARTER, ALERT OUR REPRESENTATIVE AND SENATOR THAT HOSCHTON IS WORKING ON THIS AND WILL HAVE IT TO THEM IN TIME FOR THEM TO CARRY IT THROUGH AND INTRODUCE IT AS LOCAL LEGISLATION AT THE APPROPRIATE TIME DURING GENERAL ASSEMBLY.

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

Thomas Mitchell further explained the necessary steps to have introduced during General Assembly.

Mayor Copenhaver recommended the City Charter Committee be comprised of three Council members and the city clerk. Mayor Copenhaver recommended Council member Jester head up the committee with members being Richard Green, Theresa Kenerly and Kristen Mahan. All recommended members accepted.

Kay Schulte, Hoschton, asked what happens once it is taken to the General Assembly. Thomas Mitchell explained the local governing body alerts local representative and Senator and then the Office of Legislative Council reviews and once approved then notices and postings are required then submitted for final acceptance by local Delegation. Ultimately the revised City Charter requires to be signed by the Governor.

### **ITEMS FOR MAYOR, CITY COUNCIL AND CITY STAFF CONSIDERATION**

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

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

**ADJOURNMENT:** Meeting adjourned at 8:27 p.m.

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

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

Respectfully submitted,

Kristen Mahan, City Clerk

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**Attachments in Minute Book**

APPROVED:

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William Copenhaver, Mayor

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Kristen Mahan, City Clerk

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**Procedure for Citizens to Address Council:** Citizens wishing to have an item they need addressed by Council must submit a written request to the 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 stand, give his/her name and address in an audible tone of voice for the record, and direct his/her 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.

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