

HOSCHTON CITY COUNCIL Regular Meeting Minutes

September 14, 2009, 7:00 p.m., Hoschton City Hall

A regular meeting of the Hoschton City Council was held September 14, 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 7:00 p.m.

Mayor Copenhaver reminds citizens there is a manner in which Council should be addressed, a speaker must first be addressed by the Mayor, and a two minute time limit on speech and 5 minute limit on topic.

ORDER OF BUSINESS

REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES:

COUNCIL MEMBER KENERLY MAKES MOTION, SECONDED BY COUNCIL MEMBER SHEPHERD, TO APPROVE MINUTES OF AUGUST 3, 2009 REGULAR COUNCIL MEETING AND SEPTEMBER 1, 2009 CALLED COUNCIL MEETING.

Motion carries by a 6 - 0 vote with all members voting in favor.

APPROVAL OF AGENDA:

Councilman Walden requests to switch the order of Unfinished or Tabled Business Items #5 and #6 so that the 2009 Budget is discussed prior to 2010 Budget.

Agenda revised to add two New Business Items being accepting Walden's resignation and calling for a Special Election to fill Post 5.

REPORTS OF STANDING COMMITTEES

Water, Waste and Environmental Services

Councilman Richard Green had no additions to report given Thursday during Work Session.

Fiscal Resources

Councilman Tom Walden reports the Committee met on Friday, September 11th to discuss the 2009 amended Budget and 2010 Budget with both being action items to be discussed when they come up.

Public Works and Properties

Councilman Jim Jester has no report.

Public Safety

Councilman Richard Shepherd has no additions to report given Thursday during Work Session.

Planning & Zoning

Councilwoman Theresa Kenerly reports no meeting.

Business, Commerce, and Economic Development

Councilman John Schulte reports the summer products available at the Hoschton Farmers Market are declining and fall vegetables are not yet available. Schulte reports the largest turn out Saturday at the Hoschton Car Show and is going quite well.

ADMINISTRATIVE ACTIVITY REPORT

Mayor Copenhaver presented the August 2009 Administrative Activity Report.

UNFINISHED OR TABLED BUSINESS

Proposed Resolution to approve revised Charter

Councilman Jim Jester provides Mayor and Council with copy of final proposed revised Charter draft. Jester summarizes objectives: modernize 91 year old Charter; maintain basis, theme and principals of original Charter by incorporating as much of old charter into new version as possible; eliminate inconsistencies that may have occurred since original Charter was created due to State law changes or enactment of local Ordinances; clarify and more precisely articulate the City's provisions for self-governance; create broadest possible legal basis for City's self-government; and create opportunity for City to revisit, review and renew all Ordinances. To address these objectives Mayor and Council agreed to move forward with this process in late June and formed a special committee with a plan of action. State Legislation, Benton and Hudgens, have been consulted to inform and seek guidance. Public meetings were held July 20, August 10, and September 14. Primary sources of information for this process include original Charter, other Municipal Charters, and most specifically the

Minutes-Council-20090914, Page 2 of 7

GMA model Municipal Charter 4th Edition dated 2007. The proposal presented tonight includes new formatting and layout in terms of its organization; greater consolidated topics and subject matter in a more logical and coherent manner; incorporates all primary provisions of the old Charter; includes recommended provisions of the Georgia Municipal Association that are applicable to our municipality; and retains powers and authority that previously existed and has been prepared in a manner consistent with recommendations of GMA.

Jester reviewed items discussed for consideration of revision. A copy of this, titled "Section/Provisions to Discuss and Consider Revising", is included herein and made a part of these Minutes. Jester states the Charter reads exactly as it did before with regard to property taxes based on city attorney as well as State Legislative counsel.

Jester states there was some discussion during the final meeting today to wait rather than move forward with this and isn't sure all satisfied that were of that opinion. Jester shares that three public meetings held with the first having no public attendance, the second having good public attendance with very good public participation and much of the progress was made during this meeting, and the final meeting being a good meeting. Jester feels there has been ample opportunity for citizens to be involved and all working papers have been posted online except the most recent which due to timing were unable to do.

Jester asks city attorney Mitchell if he wants to comment on any significant areas that are not being incorporated based on GMA recommendation. Mitchell states after the second public meeting he spoke again with the General GEFA Counsel and had two conversations with the head of the Office of Legislative Counsel regarding ability to place cap on millage rate and this Charter. GEFA is not comfortable and opposes placing a cap. Office of Legislative Counsel is not going to pass it if GEFA is uncomfortable and also have their own issues with placing a cap when you have a City that already has signed obligations in full faith and credit. Mitchell explains that the cities having millage rate caps in their Charters are new cities that had no debt when Charter written.

Jester reads Resolution aloud.

COUNCIL MEMBER JESTER MAKES A MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO ADOPT AND APPROVE THIS RESOLUTION AS READ.

Multiple outbursts and comments by audience members without recognition by Chair interrupt Mayor Copenhaver.

Erma Denney addresses Mayor stating he can have her thrown out but you need to ask attendants, stating she had her hand raised before he (Jester) stated the Resolution.

Mayor Copenhaver responds to Denney saying she has no authority, sit down. Mayor Copenhaver states Denney is out of order.

David Zeger, without first being recognized by Chair, says the Chair is out of order.

Denney continues, without first being recognized by Chair, stating she had her hand up to ask a question before. Denney addresses Councilman Jester stating he has pulled this trick before.

Kelley Gary, without first being recognized by Chair, addresses Mayor Copenhaver asking if there will be opportunity for public input. Copenhaver responds to Gary saying there will be but this is not the time yet. Copenhaver states the time will be after Council has their right to talk this Resolution.

Multiple outbursts and comments continue by audience members without recognition by Chair.

Sandie Romer, without first being recognized by Chair, states Council was seconding it and that's not talking.

Denney, without first being recognized by Chair, asks if it can be reversed. Denney addresses Mayor and Council states you've done this before you guys, it's an old trick.

Mayor Copenhaver responds, it is not an old, I've told you you're out of order, please sit down or you'll be asked to leave.

Kelley Gary, without first being recognized by Chair, asks if there will be time for public input.

Mayor Copenhaver responds, there will be a comment period and you will be limited to two minutes with a total of five minutes on the topic, you've been told this before.

David Zeger, without being recognized by Chair, asks if that's five minutes per person.

Mayor Copenhaver responds no sir; it's a limit of two minutes per person and five minutes on the topic.

Multiple outbursts and comments continue by audience members without recognition by Chair.

Mayor Copenhaver states no more comments at this time and asks audience members to please be quiet and please sit.

Minutes-Council-20090914, Page 3 of 7

Mayor Copenhaver addresses Council stating we have a motion and a second to approve the Resolution and asks Council if there are any additional comments.

Councilman Richard Green says he thinks now is the time to hear public comment but really wants to see it done in an orderly way. Green further states he doesn't want to undercut anyone but thinks before Council takes a vote they should hear public comment.

Mayor Copenhaver states, at this point he reminds everyone they will be recognized by the Chair and be limited to no more than two minutes and no more than five minutes per topic. Mayor Copenhaver then recognizes Erma Denney to speak.

Erma Denney, Hoschton, addresses Council listing reasons why she asks that Council does not vote on proposed Charter changes.

David Zeger, Hoschton, states he holds a letter before him filed today with the City. Mayor Copenhaver asks Zeger if this deals with the Charter. Zeger responds yes, it deals with the Council and their attempts to revise the Charter and the current state of the City Council, this notice of intent includes the call for immediate resignation of the Mayor, Post 2 Jim Jester, and Post 1 of the Council. Mayor Copenhaver states to Zeger he is not dealing with the Charter as they are talking about. Copenhaver calls Zeger out of order and asks him to please be quiet.

Brian Bowmar, Highway 53, asks about 3.1E regarding taking away the Mayor's authority to hire and fire. City attorney Mitchell responds reading section 3.10D then 3.10E and section 2.13, Powers and Duties of Mayor, subsection "C".

Kelley Gary, 22 Hickory Walk, states this is a 90 year old Charter, it's not an emergency, doesn't believe we need to rush to change the Charter tonight, and it can wait until a new Council is on board that they trust. Gary lists reasons and issues he has with the revised Charter including referencing the millage rate cap.

Mayor Copenhaver informs Gary his speaking time is up. Gary continues speaking. Copenhaver states again his time is up and asks him to please sit down. Copenhaver announces that concludes the five minute time limit on that topic.

Mayor Copenhaver states they have a motion and a second to approve the Resolution authorizing moving ahead with the revised Charter.

Gary, not first being recognized by Chair, interrupts Mayor stating Point of Order. Gary asks if this procedure has ever been used in recent history to limit time.

Copenhaver responds it may not have been in recent history but with the number of people here tonight (interrupted)

Mayor Copenhaver is interrupted by an audience member and asks citizen, sir give me a chance to talk.

Multiple outbursts and comments continue by audience members without recognition by Chair.

Sandie Romer, without first being recognized by Chair, stands and states she is about to become a future Council member.

Mayor addresses Romer stating she has not been recognized by the Chair, please sit down.

Romer continues in a loud voice, stating the morning meeting was held knowing that she was not going to be able to be here, this is not right.

Mayor asks Chief Howell to escort Ms. Romer out of the building. Mayor states no more outbursts will be tolerated.

Kelley Gary, without first being recognized by Chair, calls a Point of Parliamentary Procedure. Gary asks who is allowed to make a Point of Parliamentary Procedure.

City Attorney Mitchell responds to Mayor and Mayor responds to Gary, members of Council.

COUNCIL MEMBER JESTER MAKES MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO ADOPT AND APPROVE THIS RESOLUTION AS READ.

Motion carries by a 6 - 0 vote with all members voting in favor.

Comprehensive Development Plan Update

City Planner Wistar Harmon states wanting to put everyone on notice that Hoschton must have a Comprehensive Plan approved by DCA, submitted no later than October 2010, and must go through two approval processes which take roughly 60 days, and if wait until last minute then first submission would have to go in June and he prefers not doing that. Wistar states having begun work on this process for the initial plan to be taken to the public for their initial review and comment and would like to begin this process before year end.

Mayor Copenhaver responds they will get together later this week.

Kelley Gary, 22 Hickory Walk, asks Mayor if the City is eligible for State loans now.

City Attorney Mitchell and Mayor Copenhaver respond yes.

Proposed Amendments to Alcohol Ordinance (2nd Read)

Councilman Jester states with the last application received, from Peckers Restaurant, several issues came up during their application process which is why the Ordinance was reviewed and recommendations made. Jester reads aloud the amended Alcohol Ordinance.

COUNCIL MEMBER JESTER MAKES MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO APPROVE THESE AMENDMENTS TO THE AFOREMENTIONED ORDINANCES.

Motion carries by a 6 - 0 vote with all members voting in favor.

Addition of Technology Surcharge to all offenses, with certain exceptions

Councilman Richard Shepherd reads aloud the new Ordinance.

COUNCIL MEMBER SHEPHERD MAKES MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO APPROVE THE TECHNOLOGY SURCHARGE ORDINANCE.

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

Amended 2009 Budget

Councilman Tom Walden reports meeting on Friday to discuss the amended 2009 Budget. Walden states this is an annual event that has been taking place in Hoschton for at least the last six years. The amendments bring the budgeted items in line with what has happened during the year during the first six to nine months with revenues and expenses. Walden announces one additional item being the settlement of the Armentrout suit and that a portion of that money was recommended by some Council members to be used for purchase of two patrol vehicles for the Police Department and an additional \$23,000 to pay some bills that have been paid by the General Fund during the past two years including 2008 legal fees paid and planning fees directly correlated to the pond abandonment which far exceed the \$23,000. Walden announces all other items were reduced. Recommendation by the committee is that we approve this amended budget.

COUNCIL MEMBER WALDEN MAKES MOTION, SECONDED BY COUNCIL MEMBER JESTER, TO APPROVE THIS BUDGET AS PRESENTED.

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

Brian Bowmar, Hoschton, states he just heard about the Armentrout settlement and thinks it's about 24 cents on the dollar compared to the damages. Bowmar asks if this was the first offer or how this amount was determined.

City Attorney Mitchell responds this is the policy limit settlement based on the insurance policy and after research it appears there are no assets in Armentrout's name.

Bowmar asks if this means that in the future when Council has a large project we should look further into what limits the engineers carry. Bowmar expresses since the money was spent toward Water and Sewer then that's where it should stay, he supports the police department, but doesn't support transferring money out of Water & Sewer when City still has GEFA loan that will increase in January an extra \$20,000 a month.

Ben Davis, Deer Creek, states he agrees with Bowmar and asks why you would even consider taking this money you've received from the lawsuit and spending on anything other than legal fees or loan repayment. They should stay in the Water and Sewer account and I ask that you consider this while you're taking your vote tonight.

Jim Higginbottom, Chestnut Chase, states he attended the Finance meeting Friday. Higginbottom addresses a couple questions to Councilman Walden regarding the Armentrout settlement proceeds allocation.

Walden responds that in the 2009 amended Budget \$279,810 of the Armentrout settlement money was allocated. Walden specifies \$166,741 allocated to the Water/Sewer Fund Budget and \$113,069 allocated to the General Fund Budget.

Higginbottom and Walden continue discussion to clarify allocation of money and amounts.

Sandie Romer, Panther Court, states she doesn't believe this money received from Armentrout should be going to anything except for GEFA and possibly any legal fees that you have to pay and if we're behind on something you should pay that. But as for going for police vehicles right now we need to wait at least another year, the cars are only five years old right now and if we need to repair them then let's repair them but to spend \$90,000 where is the money going to come from for the GEFA loan.

Proposed Fiscal Year 2010 Budget

Councilman Tom Walden reports presenting the 2010 Budget during last Council Meeting and discussed during 9/11 Fiscal Resource Committee meeting. Walden states Budget is basically unchanged except during August meeting city assumed it would have obligation bonds which would allow for deferred payments until 2012, it was decided that general obligation bonds are not in the best interest of the city so that has been withdrawn and no further discussion regarding possible obligation bonds expected. The \$216,000 required for GEFA loan #1 and \$264,000 for GEFA loan #2 was calculated in the Water/Sewer Budget and reallocated \$376,262 from Armentrout settlement so that is covered for the year. In General Budget a request was made for a third police vehicle at a cost of \$41,061 to be allocated from Armentrout settlement. Walden reports these are the only changes subsequent to what was provided during time of first motion.

COUNCIL MEMBER WALDEN MAKES MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO ADOPT THE 2010 BUDGET AS PRESENTED.

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

Brian Bowmar, Hoschton, asks how many employees in police department and how many police vehicles currently.

Chief Howell responds we currently have four full-time officers and a reserve contingency of approximately six to eight reserve officers. Currently have eight vehicles in the fleet and many of these vehicles are high mileage and can be retired with a new vehicle. Chief clarifies for Bowmar that six existing vehicles may be retired with the purchase of three new vehicles.

Jim Cleveland, Deer Creek, asks the cost of the new police vehicles.

Chief Howell responds two clearance models are available now and have been located at a nearby dealership at a cost of just under \$22,000 per vehicle rather than the typical \$33,000.

Cleveland, states he thinks that if vehicles are going to be purchased then the cost needs to be kept down.

Jim Higginbottom, Chestnut Chase, asks when determining to buy new vehicles was the option of buying used vehicles considered or consider doing with fewer vehicles and give officers pay raise. Higginbottom asks the process for coming to the conclusion of three vehicles.

Councilman Walden clarifies that two are approved for purchase during 2009 and one at the end of 2010. Walden reports the police vehicles are falling apart and Hoschton has had no new police vehicles in about five years. Walden states used vehicles were not considered.

Councilwoman states leasing was considered.

Councilman Shepherd responds as his role as Public Safety Chair has met monthly with the police department during the past two years and all vehicles have been inventoried with regard to mileage, repair costs, and vehicle equipment. Shepherd states the cars are basically wrecks driving around, the city insurance provider has requested the vehicles be replaced and the problem with used vehicles is they would come in with high mileage. Shepherd reports alternatives to new vehicles have been considered during the past two years.

Higginbottom states he has a problem with retiring vehicles at 110,000 miles after having driven a van then selling it when it had 440,000 miles with minimal maintenance or repair costs. Higginbottom suggests reviewing the maintenance program.

Mayor Copenhaver responds it must be remembered these are police vehicles, they are on the road a lot, and the city has insurance as well as GEFA requirements to meet with these vehicles already exceeding the acceptable mileage standard. Officers must be in reliable vehicles.

NEW BUSINESS

Administer Elections Superintendent Oath to Kristen Mahan

Mayor Copenhaver administers Elections Superintendent Oath to City Clerk Mahan.

Discuss Sample Telephone Ordinance recommended for adoption by GMA

City Attorney Thomas Mitchell recommends Council waive first read as this is not a controversial Ordinance.

COUNCIL MEMBER WALDEN MAKES MOTION, SECONDED BY COUNCIL MEMBER SCHULTE, TO WAIVE FIRST READ ON THE TELEPHONE ORDINANCE.

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

Discuss Sample Rights of Way Permit Ordinance recommended for adoption by GMA

City Attorney Thomas Mitchell recommends Council waives first read on the Ordinance provided by GMA.

COUNCIL MEMBER SHEPHERD MAKES MOTION, SECONDED BY COUNCIL MEMBER WALDEN, TO WAIVE FIRST READ ON THE RIGHTS OF WAY PERMIT ORDINANCE.

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

Councilman Jester requests Mitchell restate why models are being reviewed.

Mitchell explains there have been changes in the law with regard to the way cable and telecommunications are being franchised or permitted in the State of Georgia. These Ordinances contain elements that in days past would have been addressed in a franchise agreement but because there are certain companies now that have the right to opt out of franchising with cities and towns it would be appropriate to put in your Ordinances some of these regulations most importantly with regard to the Right of Way Permit Ordinance. This Ordinance requires notice be provided to the city prior to installing underground lines.

Accept resignation of Tom Walden from City Council Post 5

Tom Walden addresses Mayor and City Council announcing that due to recent concerns about his health and family relationships he's decided he can no longer devote the time or energy he considers necessary to be a City Councilman for the City of Hoschton therefore he resigns his Post 5 as of now.

City Attorney Mitchell recommends amending agenda two add two items, the first being accepting Mr. Walden's resignation and the second be to call for a Special Election to fill that Post that will be held in conjunction with the General Election

COUNCIL MEMBER JESTER MAKES MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO AMEND THE AGENDA.

Motion carries by a 5 - 0 vote with all members present in favor.

COUNCIL MEMBER KENERLY MAKES MOTION, SECONDED BY COUNCIL MEMBER KENERLY, TO ACCEPT THE RESIGNATION OF COUNCILMAN WALDEN.

Motion carries by a 5 - 0 vote with all members present in favor.

Approve Special Election Resolution to fill the unexpired term of Post 5

City Attorney Mitchell reads aloud the Resolution for a Special Called Election on November 3, 2009 to fill the unexpired term of Post 5, further resolved qualification to be on October 6, 7 and 8, 2009 and qualifying fee to be set at \$11.00, and further resolved Election Superintendent Kristen Mahan shall serve as Election Superintendant for this Special Called Election.

COUNCIL MEMBER SHEPHERD MAKES MOTION, SECONDED BY COUNCIL MEMBER JESTER, TO APPROVE THE RESOLUTION AS READ BY CITY ATTORNEY CALLING FOR A SPECIAL ELECTION TO BE CONCURRENT WITH THE GENERAL ELECTION IN NOVEMBER AND QUALIFYING TO BE OCTOBER 6, 7 AND 8, 2009.

Motion carries by a 5 - 0 vote with all members present in favor.

ITEMS FOR MAYOR, CITY COUNCIL AND CITY STAFF CONSIDERATION

Erma Denney, Hoschton, asks what other options were considered when discussing using Armentrout settlement money to purchase new police vehicles.

Councilman Walden responds the request came in while discussing the 2010 Budget and he recollects that as the only consideration.

Councilman Jester responds Council first informed about the possibility of the Armentrout settlement during an Executive Session and only after a couple days contacted Councilman Walden to recommend that if the Chief concurred that vehicles be purchased.

Doug Easter, 49 Butternut Walk, asks if Council has had been opportunity to review the two Ordinances he submitted a couple months ago.

Mayor Copenhaver responds they are being worked on.

Minutes-Council-20090914, Page 7 of 7

Carolyn Knott, 20 Butternut Walk, states it's apparent from the number of people at this meeting more people are getting interested in Hoschton and she's glad. Knott asks if there is a larger facility available for future meetings and would moving the meetings be considered.

Jim Higginbottom, Chestnut Chase, states being one of the incoming Council members asks if there is a policy for indoctrinating new Council members before they actually take office.

Mayor Copenhaver responds he is not aware of there ever being a formal indoctrination program and he did not receive one but the Council does hold a training session.

City Attorney Mitchell responds that after the election, since there is one contested election, he will ask current Mayor and Council for a limited waiver of the attorney client privilege and talk to the newly elected incoming officials to discuss pending litigation and briefly about pertinent City items including Ordinances. Mitchell states there is also a requirement for newly elected officials in Georgia to attend the Newly Elected Officials training which must be completed within the first 6 to 12 months of their term.

EXECUTIVE SESSION: None

ADJOURNMENT: Meeting adjourns at 8:28 p.m.

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

Motion carries a 5 – 0 vote with all members present in favor.

Respectfully submitted,

Kristen Mahan, City Clerk

Attachments in Minute Book

APPROVED:

William Copenhaver, Mayor

Kristen Mahan, City Clerk