City of Flowery Branch
City Council Meeting Minutes
Thursday, March 3, 2022, 6:00 P.M.
City of Flowery Branch City Hall
5410 W. Pine Street, Flowery Branch, GA 30542

CALL WORK SESSION TO ORDER:

Mayor Edward Asbridge called the council meeting to order at 6:01 pm.

Present: Mayor Asbridge and Council Members Joe Anglin, Oliver McClellan, William McDaniel and Chris Mundy.

Also present were City Manager Tonya Parrish, City Clerk Shelia Cooper, Finance Director Alisha Gamble, Planning Director Rich Atkinson, Interim Police Chief Chris Hulsey, Public Works Director Bill Whidden and City Attorney Ron Bennett.

PLEDGE OF ALLEGIANCE:

Mayor Asbridge led the Pledge of Allegiance.

PUBLIC HEARING:

Public Hearing to consider a request from Lights Ferry Partners, LLC. and Diego Fracasso to Rezone 5908 Lights Ferry Road, a 1.92+/- acre of land also known as Tax Parcel Identification Number 08112 027019 from Residential, Detached Single-Family, Low-Density District (R-1) to Traditional Neighborhood Development District (TND).

Planning Director Atkinson presented a request from Lights Ferry Partners, LLC. and Diego Fracasso to rezone 5908 Lights Ferry Road from R-1 to TND. The tax parcel identification number 08112 027019 would be divided into seven separate parcels with seven single family detached homes constructed. The proposed finishes would be brick or stone water tables and accents, wooden timber or decorative columns, lap siding, large porches with metal roofs, detached garages, exterior fireplaces, and cohesive fencing. Elevations are required to be submitted to staff for approval prior to the issuance of a land disturbance permit, it must meet the requirements of the TND zoning district and it must meet the requirements of the zoning ordinance. The stormwater pond would be required to have decorative fencing, landscaping, and it would need to be more of a feature than an eyesore and it must be owned and maintained by a homeowner's association. Staff feels this project meets the intent of the TND and although it lacks the classic grid pattern, it is what the City wants to see in TND. The proposed project meets the intent of the comprehensive plan and its designated "Old Town" character area.

Council Member McClellan asked if the properties that are northeast and southeast of the plot are Traditional Neighborhood District and Planner Atkinson stated he would find out the answer.

Council Member McClellan asked if only seven homes could have a homeowner's association and Planner Atkinson stated that was correct.

Council Member Anglin asked if four driveways off one road and three driveways off another road and Planner Atkinson stated that was correct.

Council Member Anglin inquired about the fencing for the seven homes and the applicant stated all homes would have consistent fencing.

Council Member Mundy would prefer the applicant put up the fencing to keep the consistency on the type and size of the fencing.

Council Member Anglin inquired about the retention pond showing a stone wall and a fence. The applicant stated that the retention pond would be built to code.

Council Member Anglin asked if the applicant would be willing to put a rental cap on the project. The applicant stated they would have to investigate this request.

Council Member McClellan suggested the fence be installed initially by the builder and have specifications on the fence in the HOA.

Council Member Mundy inquired about the size of the retention pond and if they will consider a water feature in the retention pond.

Council Member Anglin inquired if there would be five-foot sidewalks wrapped along the street line and the applicant said it would be built to code.

Mayor Asbridge stated there have been so many questions and suggestions because this corner lot is going to be very visible.

Council Member McClellan asked Planner Atkinson if there were any proposed road widening for this road that would impact this project. Planner Atkinson stated he was not aware of any proposed road widening.

Public Comments:

Harold Kilgore, 318 Jim Grizzle Road, Royston, Georgia 30662

Mr. Kilgore stated he is not for or against the project. He has concerns regarding the project such as grading, retention pond, and placement of the driveways.

Council Member Anglin inquired about garages and turning around without backing into the road. The applicant stated there are options for the garages and turn arounds.

Mayor Asbridge closed the public hearing at 6:32 pm.

UNFINISHED BUSINESS - WORK SESSION:

Consideration of Second Reading for Ordinance 661: GMEBS-R; City of Flowery Branch Defined Benefit Retirement Plan Amendment

Finance Director Gamble presented a second reading for Ordinance 661: GMEBS-R; City of Flowery Branch Defined Benefit Retirement Plan Amendment. Per the executed employment agreement with the new City Manager, the City must provide eligibility for immediate vesting in the Defined Benefit Plan. Because of this requirement, an amendment to our plan document is required. Once executed by our Mayor and Council, GMEBS will finalize the execution of the plan amendment for the effective date of March 3, 2022.

NEW BUSINESS -WORK SESSION:

Consideration of Termination of Leasing Agreement with Oakhurst Realty Partners, LLC

City Manager Parrish presented a consideration of termination of the lease agreement with Oakhurst Realty Partners, LLC. The leasing agreement was signed on October 12, 2020, for the Leasing Agent to lease 5318 Railroad Avenue and the mixed-use development commercial property on Main Street. As of March 3, 2022, there are no leases on any of the ground floor commercial properties at the Main Street location, nor is there a lease on 5318 Railroad Avenue.

Consideration of Resolution 22-003: Award of Contract to Archer Western for the Wastewater Treatment Plant Interim Improvements Project in the amount of $869,900

Finance Director Gamble and Rich Edinger of Clark Patterson Lee presented Resolution 22-003: Award of Contract to Archer Western for the Wastewater Treatment Plant interim improvements project in the amount of $869,000. The purpose is to upgrade the Wastewater Treatment Plant to handle more wastewater and improve ammonia treatment residence time. There were four bids received with two deductive alternate options for each bid. Deductive Alternate A is a deduction for installation of two blower units. Deductive Alternate B is a deduction of monthly rental of two blower units for twenty-four months. Bids ranged from $1,049,900 to $2,029,117.

BID TABULATION SUMMARY:

CONTRACTOR	LOCATION	BID TOTAL	DEDUCTIVE ALTERNATE A	DEDUCTIVE ALTERNATE B
WASTEWATER INDUSTRIAL SOLUTIONS, LLC	DOUGLASVILLE, GA	$2,029,117	NONE	NONE
IHC CONSTRUCTION COMPANIES, LLC	MARIETTA, GA	$1,417,000	$1,900	$6,200/MONTH
SOUTHERN CHAMPION CONSTRUCTION, INC	SAVANNAH, GA	$1,347,055	$25,000	$160,000
ARCHER WESTERN	ATLANTA, GA	$1,049,900	$3,400	$180,000

The recommendation is to award the contract for the Wastewater Interim Improvements Project to Archer Western with the selection of Deductive Alternate B.

- Contract amount $1,049,900
- Less: Deductive B ($180,000)
- Revised cost: $869,900

Funding recommendation: American Rescue Plan Act Grant funding $869,000.

Mayor Asbridge asked if the cost is $869,000 with an additional cost of renting the blowers. Mr. Edinger stated that was correct.

Council Member Anglin asked if these improvements will be a part of the new plant and Mr. Edinger stated these will not be a part of the expansion. This is just to give the operators an additional residence time to treat the ammonia.

Council Member McClellan inquired about the funding and Finance Director Gamble stated this project qualifies under the American Rescue Plan Act Grant.

Council Member Anglin asked if there was any concern over the difference in the bids. Mr. Edinger explained that these bids are very typical with having one high bid, one low bid and the remainder in the middle clustered closer together.

Council Member Anglin asked if Archer Western has a good reputation and Mr. Edinger stated he knew them by reputation only, but he has heard good things about this company and Black and Veatch speaks highly of Archer Western.

Council Member Mundy expressed his concern that there may be hidden costs that are not articulated in the bid. Mr. Edinger explained that this bid is a lump sum contract.

Council Member McDaniel asked if there is a time limit on this project. Finance Director Gamble stated the time limit is two hundred and forty days.

Council Member Anglin asked if this would slow down the expansion and Mr. Edinger stated this would not get in the way of the expansion.

Consideration of Resolution 22-004: Declaration that an Emergency Exists and Approval of Wastewater Treatment Plant Interim Project – Blower Rental

Finance Director Gamble and Rich Edinger of Clark Patterson Lee presented Resolution 22-004: Wastewater treatment plant blower rental. By accepting Deductive Alternate B of the Wastewater Treatment Plant interim improvements project bid proposal from Archer Western, the City can save $40,800 on renting the necessary blower equipment for use in the project immediately. Residence time for ammonia treatment has been falling. This project will bring existing idled tanks on the plant site into use to increase said residence time to improve ammonia treatment. As the plant treats more and more wastewater, and as temperatures rise in the Spring and Summer months, ammonia will be more of an issue. By installing more blowers, these issues will be minimized. Per the City's purchasing policy, this rental qualifies as an emergency purchase. Aerzen will rent blowers directly to the City for twenty-four months at a total cost of $139,200.

Finance Director stated that this will be funded by the American Rescue Act Grant.

Consideration of Approving Task Order FBR22001 - Well System Development Studies by Infratec Consultants, Inc.

Finance Director Gamble and Bob Troxler of Infratec Consultants, Inc. presented task order FBR22001. The purpose is to authorize the engineer to provide engineering services related to the expansion of the City's drinking water well system. This project involves preparing documentation and tests required to obtain approval of two wells for use as water supplies for the City. The City currently operates three wells for supplying water to its water customers. The two larger wells have approximate capacities of 180 gallons per minutes (GPM) and 220 (GPM). The wells cannot be pumped continuously without decreasing the life of the wells. Additional water supply is required to meet the future needs of the City. Approval Task Order FBR22001with Infratec Consultants, Inc. for a total cost for the work will be broken down approximately as follows:

- A&S Environmental Services (EPD Requirements) $12,104
- Hand Services (48 Hour Pumping/test/samples) $21,300
- Project Management – Infratec $5,400
- TOTAL: $38,804

Funding: $50,000 project allocated in the Wastewater Capital Projects Fund (GEFA Water System Improvements Plan)

Council Member McClellan wanted clarification on if we should not do the pump test until we have received approval from the well head protection issue. There is a state requirement that you must have someone come out and inspect the topography and area around the well and then they develop a well head protection plan. The state is supposed to do this for us and it should be sometime soon.

Mayor Asbridge asked if the wells have ever been used and Mr. Troxler said they have not ever been used.

Council Member McClellan asked where we are in the process of acquiring the wells from the state. City Manager Parrish answered that we need to ensure they are viable and that it is feasible for us to acquire them. Our plan is to use the appraisal we had done in June 2021 and the state will have an appraisal but until we know that is a feasible project for us to pursue, it is on hold until we get beyond this step.

Council Member Anglin asked if the state knew we were about to engage in purchasing the wells.

Mr. Troxler stated he expects the well test will be fine and the wells are not far apart.

Finance Director Gamble stated that funding for Task Order FBR22001 has already been budgeted in our Wastewater Capital Projects Fund with the use of some of the GEFA approved water funding. The budget we had allocated was $50,000 so the total amount is less than we had budgeted.

Consideration of Resolution 22-005 Opposing HB 1093 and SB 494

City Attorney Bennett present Resolution 22-005 opposing HB 1093 and SB 494. Mayor and Council became aware of HB 1093 and SB 494 and the limits the bills would place on the City's exercise of zoning power including the regulation of "build to rent" communities. At the direction of Mayor and Council, the City Attorney drafted a resolution opposing these bills.

HB 1093 and SB 494 were introduced in early February as preemption bills. The bills are slightly different but have in common the limitation of a local government's ability to exercise its power to zone which currently includes the power to regulate rental uses on residentially zoned or used properties.

HB 1093 and SB 494 both prohibit a local government from restricting long term rental agreements, which the House defines as "30 days duration" and the Senate defines as "12 months." These bills appear to be intended to ease the ability of developers to purchase property and build residential neighborhoods that are 100% rentals or "build-to-rent" neighborhoods. Both bills would penalize local governments for restricting long term residential rental uses by waiving sovereign immunity up to $1,000,000 and allowing prejudgment interest on any award of damages. HB 1093 additionally disqualifies local governments from receiving any "financial funds, assistance or grants from the Department of Community Affairs." While SB 494 adds a more onerous penalty of the loss of qualified local government status for 6 months which could impact a wider scope of financial benefits beyond those administered by DCA. The concern with these bills is the erosion of local government control and autonomy pertaining to the exercise of zoning power. The Georgia Municipal Association is formally opposing the bill, not because of opposition to 100% rentals or "build-to-rent" residential subdivisions, but to preserve local control and autonomy over zoning decisions. The bills have been met with wide opposition from members of the General Assembly and from other municipalities.

DEPARTMENT REPORTS:

City Manager Report:

City Manager Parrish reported that we had applied for State Fiscal Recovery Funds in the amount of $23.3 million dollars, and we did not receive any funds from this.

City Clerk Report:

City Clerk Cooper invited all citizens to come out to vote for the Special Election on March 15, 2022.

Downtown Events Coordinator Carden announced she will be live on the Fox Business Network on Sunday, March 6 at 6:30am to discuss the Farmer's Market.

Mayor's Report

Mayor Asbridge reported the City will have our Annual Retreat on Saturday, March 19, 2022.

ADJOURNMENT WORK SESSION:

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

Mayor Asbridge called the voting session to order at 7:17 pm.

PUBLIC COMMENTS:

There were no public comments.

CONSENT AGENDA:

- Consider Mayor Asbridge Per Diem
- Consider February 17, 2022 Council Meeting Minutes

There was a motion made to approve the consent agenda.

MOTION: Chris Mundy
SECOND: William McDaniel
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

UNFINISHED BUSINESS - VOTING SESSION:

Consideration of Second Reading for Ordinance 661: GMEBS-R; City of Flowery Branch Defined Benefit Retirement Plan Amendment

City Attorney Bennett read the caption for Ordinance 661.

There was a motion made to approve the Second Reading of Ordinance 661: GMEBS-R; City of Flowery Branch Defined Benefit Retirement Plan Amendment.

MOTION: Joe Anglin
SECOND: Oliver McClellan
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

NEW BUSINESS - VOTING SESSION:

Consideration of Termination of Leasing Agreement with Oakhurst Realty Partners, LLC

Mayor Asbridge reported that Oakhurst Realty Partners, LLC will get the commission if they have an approved lease from an approved client.

There was a motion made to approve the termination of the leasing agreement with Oakhurst Realty Partners, LLC.

MOTION: Joe Anglin
SECOND: Chris Mundy
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

Consideration of Resolution 22-003: Award of Contract to Archer Western for the Wastewater Treatment Plant Interim Improvements Project in the amount of $869,900

City Attorney Bennett read the caption for Resolution 22-003.

There was a motion made to approve Resolution 22-003: Award of Contract to Archer Western for the Wastewater Treatment Plant Interim Improvements Project in the amount of $869,900.

MOTION: Oliver McClellan
SECOND: William McDaniel
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

Consideration of Resolution 22-004: Declaration that an Emergency Exists and Approval of Wastewater Treatment Plant Interim Project – Blower Rental

City Attorney Bennett read the caption for Resolution 22-004.

There was a motion made to approve Resolution 22-004: Declaration that an emergency exists and approval of Wastewater Treatment Plant Interim Project – Blower Rental.

MOTION: Chris Mundy
SECOND: Oliver McClellan
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

Consideration of Approving Task Order FBR22001 - Well System Development Studies by Infratec Consultants, Inc.

There was a motion made to approve Task Order FBR22001 – Well System Development Studies by Infratec Consultants, Inc.

MOTION: Joe Anglin
SECOND: Oliver McClellan
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

Consideration of Resolution 22-005 Opposing HB 1093 and SB 494

City Attorney Bennett read the caption for Resolution 22-005.

There was a motion made to approve Resolution 22-005 Opposing HB 1093 and SB 494.

MOTION: Chris Mundy
SECOND: Joe Anglin
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

EXECUTIVE SESSION:

There was a motion made to enter executive session at 7:25 pm for matters related to the acquisition/disposition of real estate and for matter related to pending or potential litigation.

MOTION: Joe Anglin
SECOND: Oliver McClellan
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

There was a motion made to reconvene open session at 10:18 pm.

MOTION: Joe Anglin
SECOND: William McDaniel
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

ADJOURNMENT:

There was a motion made to adjourn at 10:18 pm.

MOTION: William McDaniel
SECOND: Joe Anglin
AYES: Joe Anglin, Oliver McClellan, William McDaniel, Chris Mundy
NAYS: None
Motion carried

______________________	____________	________________________
Ed Asbridge, Mayor	Date	Shelia Cooper, City Clerk