

Draft

## JULY 6, 2004 - REGULAR COUNCIL MEETING

The regular meeting of the City of Lavonia Mayor & Council was held on the above date at 5:30 P.M. with the following members present: Mayor Ralph M. Owens, Council Members: Eddie Floyd, Jr., Don Canady, Kay McGlennen, and Jason Macomson. Also present were City Attorney John Dickerson, City Manager Gary Fesperman, Police Chief Randy Shirley, Assistant City Clerk Susan Gorman, Fire Chief Jones Beasley, Gary V. Smith, Cindy Smith, Ruth Davis, Shirley Parker, Sandra Almond, Colene Clark, Patricia Baugus, Mary Baugus, Clifford Baugus, Linda Crowe, James Crowe, Lyndon Burgess, Scott O'Barr, Brian Tyson, Chad Marcengill, Charles Cawthon, Sylvia Mouchet, Susan Strickland, Charles & Helen Tuner, Peggy Bruce, Beverly Thompson, Ruth Ann Gillespie, Randy Moore, Jose Inglesias, Genny Cole, Ruth Thomas, Elene Crider, Dianne Mauldin, Mary Ann Blakely, Jan Burgess, Byron & Diane Toney, Rickey Whitworth, Robert Wilbanks, Parks Martin, Jay Baskins, Jon Baskins, Denise Matthews – Franklin Co. Citizen and City Clerk Angela V. Greer.

Mayor Ralph Owens called the meeting to order and welcomed everyone. Jose Inglesias gave the invocation followed by the pledge to the flag.

Motion by Kay McGlennen, seconded by Don Canady to approve the minutes of the June 3, 2004 Called Meeting, the minutes of the Public Hearing June 7, 2004, and the minutes of the June 7, 2004 Regular Meeting as presented. Motion carried.

Motion by Don Canady, seconded by Eddie Floyd to approve the Occupational License for Los Juarez Mexican Restaurant – John Perez at 12290 Augusta Rd. Motion carried.

Genny Cole DDA & Better Hometown Director on behalf of the National Arbor Foundation & Downtown Development Authority presented the City of Lavonia with a Tree City USA Arbor Day Foundation Flag.

City Manager Gary Fesperman presented the Downtown Development Authority & Better Hometown Program with an award for the City of Lavonia being designated as a National Main Street City,

City Manager Gary Fesperman advised the Mayor and Council about the problem of sewer line installation at the Gerrard Road site for the spec buildings. The spec buildings finished flooring is about 7' below where the existing sewer line is on Gerrard Road. To correct this problem a trunk line would have to be ran out of the existing lift station behind the old Waffle House with an 8" line to trunk across the back side of the Gerrard Road Facility to take care of the sewer not only for the 2 proposed Rooker 100,000 sq ft buildings, but any future developments in Gerrard park. Franklin County Industrial Authority has agreed to cost share this project with the City of Lavonia. Dodd Construction proposal \$37,290.00.

Motion by Don Canady, seconded by Kay McGlennen to approve of this project and to make it a capital expenditure out of the water department to take of this trunk line. Cost share would be 50 -50. Motion carried.

Mayor advised the council that Rosemary Victory was to appear before them about a traffic light be at the intersection Hwy 77 & Bowman Street. There have been several accidents at this intersection. Mayor advised that the Police Dept had been instructed to run radar. Police Chief Randy Shirley has written a letter to the State to do a study on the traffic flow and try to install a traffic light there. Mayor advised again that police would be running radar with no allowance for speeding.

Councilman Jason Macomson advised the Mayor and Council about the effort of publishing the City's updated code version on-line. Municipal Code Corporation is currently republishing the codes and they offer several options if the Council decides to do this. The first option is Folio BoundVIEWS \$495 plus \$75 additional license fee, problem is that what a person may see on-line will not match the printed version. The second option is the Code in Adobe PDF format – professional clean look would have to have another software to actually open it up & edit \$495.00 will match the printed version exactly. The third option is LivePublish they will print the code on their website for \$300 for the first year and \$350 thereafter and they will updated. Not user friendly. He recommends that we get it in the PDF file format that is the most compatible with what we are doing on-line at the cost of \$495 any time they supplement it there will be an additional charge of \$75.

Motion by Jason Macomson to purchase the PDF format, seconded by Eddie Floyd. Opposed were Don Canady, and Kay McGlennen. Mayor Ralph Owens also opposing. Motion denied.

Motion by Don Canady, seconded by Kay McGlennen to sign the intergovernmental agreement between Franklin County Board of Commissioners and the City of Lavonia on the Communication Tower. Motion carried.

Motion by Don Canady, seconded by Eddie Floyd to sign the amended agreement with the Hart County Water Authority for sewer rates to be as follows: \$13.75 for the first 3,000 gallons per month and \$4.50 per 1,000 gallons thereafter per month. Motion carried.

City Attorney John Dickerson then advised the Mayor and Council about the Hartwell Railroad update. Mr. Dickerson addresses an issue of a potential conflict of interest and that there is no conflict of interest. A Public Hearing requires that the City be a public body hearing both sides with a free and open mind as to what kind of resolution the City may elect. Mr. Dickerson has confirmed with the Georgia Bar Association and confirmed with the reading of the Rules of Professional Responsibility that he knew even well before that as far as he is concerned that his firm has no conflict of interest. Mr. Dickerson stated that he has never had any conversation with anybody from Hartwell Railroad about Adams St. or with Mr. Anderson a day in his life.

The only conversation that Mr. Dickerson has had with any other representative of the Hartwell Railroad had to do with a tax sale where the Hartwell Railroad purchased a piece of property from the City of Lavonia. Mr. Dickerson was called about it knowing that he was representing the City of Lavonia trying to work out arrangements for tax deed to be corrected.

Mr. Dickerson then stated that he had respect for each one of the council members as elected officials and that he would continue to give the absolute best advice that he can to the City.

Mr. Dickerson then stated that it is the responsibility of elected officials at a public hearing to not prejudge and he will continue to suggest that is the absolute appropriate thing to do at all times.

Mr. Dickerson then advised where the City of Lavonia is with regard to the Hartwell Road. Mr. Dickerson advised the Mayor and Council by letter written June 25, 2004, that it was his understanding that the Hartwell Railroad would withdraw the initial request to close the crossing at Adams St. They withdrew that request based on the fact that there are a number of regulations that they must meet that are required by the Georgia Department of Transportation. Since the initial application of the Hartwell Railroad did not comply with these GDOT regulations they have withdrawn that application but have resubmitted it.

Since they have resubmitted the application the City must fill out information and that the City Manager will be working with the GA DOT representatives to complete the City's portion. The railroad must complete a portion of this Highway Safety Evaluation form and perhaps they have information they have to submit on a regular basis not only to GDOT but to the National Transportation Board.

Mr. Dickerson recommends that a Public Hearing be scheduled for August 2, 2004 at 5:00 P.M. The City will be required to give notices. At the Public Hearing the City will have an opportunity to hear from anyone, the City will have to record the comments made but according to GDOT regulations the City will also have to have a written form that allows comments to be made in writing up to five days after the public hearing. You then will have 90 days after the receipt of the petition so Mr. Dickerson recommends that we receive additional information and then on the September 7, 2004 meeting at 5:30 P.M. you can make that decision in writing and it has to be supported by the information that you have heard from the public. It can certainly reflect your individual feelings or philosophy but it has to be in writing and be submitted to the Georgia Department of Transportation. The most important thing that everyone understands is that the Georgia Department of Transportation will be the body that makes the ultimate decision.

After further discussion, Mr. Dickerson advised that the city will have to post signs on either side of sight, outside and inside city hall, a copy of notice to the newspaper, and written forms available for the August meeting.

The Mayor assured everyone that the City is not trying to close the crossing it is the railroad that wants to close it.

The Mayor advised that the August 2, 2004, Regular Council Meeting will be moved to 6:00 P.M. and the Public Hearing will be at 5:00 P.M.

Jose Inglesias approached the Mayor and Council about using the depot for his Church services on Wednesday and Sundays for 6 months at another rate. They have used it for weddings for the fee of \$85.00. City attorney John Dickerson then advised that an issue that the City may have is granting an exclusive right to any organization, specifically to a religious organization for a period of time that Mr. Inglesias is requesting. The city is under a tremendous responsibility to carefully make sure that it follows all the guidelines and requirements of the U. S. Constitution and Georgia Constitution. One of the things that the Constitution says is that the City has to make sure that there is a separation of the Church and State. Mr. Dickerson said that providing a public building for any religious organization on a regular basis would create a problem. Obviously on a periodic basis or on an emergency basis that is one thing.

Mr. Inglesias said if it was not possible that they would continue to look for a building. He told the Mayor and Council that he is very interest in the community.

Motion by Don Canady, seconded by Kay McGlennen to enter into executive session at 6:14 P.M. to discuss litigation and personnel. Motion carried.

End executive session and enter into regular meeting at 7:05 P.M.

Motion by Jason Macomson, seconded by Eddie Floyd to place James Moseley in the position as the water superintendent. Motion carried.

Motion by Eddie Floyd, seconded by Don Canady to enter into a partnership with the Lavonia Chamber of Commerce to pay half of the executive secretary's salary. Motion carried.

Motion by Don Canady, seconded by Kay McGlennen to hire Mr. Simmons as the waste water superintendent. Motion carried.

Mayor Ralph Owens and City Council will sign proclamation to proclaim that Tuesday, August 3, 2004 as "National Night Out" in the City of Lavonia.

Mayor Owens brought of the discussion about the City's website. Mayor Owens, Don Canady, and Kay McGlennen had a problem with the website not being brought before Mayor and Council. Mayor then stated that it was never brought to his attention about his name, address and phone number would be available to everyone and he has a problem with it. Councilman Floyd then asked how long the City has had a website.

Councilman Macomson stated that he started working on it December but actually went online in January, 2004. The merchants had a website before but basically as a business directory.

Mayor Owens has looked at other website that the City Manager has pulled up, and they have who the Mayor is but they have no addresses and phone numbers. Mr. Macomson ask if his number was in the book and then stated that their address and phone numbers were public records. Mayor Owens then stated that it was in the book and that the people in Lavonia could call it anytime.

Mayor Owens then stated he had a problem with it. Don Canady and Kay McGlennen also did not like their address and phone number being on website. Mr. Macomson then stated that the Council should decide what is on or what is not on it. Mayor Owens asked who decided what goes on it. Mr. Macomson then stated that he and Mr. Fesperman started working on it and that he put nothing on it that was not public record.

Councilman Macomson then stated that he posted the draft minutes on the website and asked if there was a problem with people finding out what they did in the council meetings. Mayor Owens then stated that there was no problem with it. Mr. Macomson then asked why they did not want them posted. Mayor Owens stated that he did not like the idea the city website was pushed on the city council without a vote for doing it.

After further discussion, Mr. Macomson asked the Mayor why he had not corrected it and the Mayor advised that is what he is doing now. Mr. Macomson stated that council should decide what is on it and that everyone knew about it. Mr. Owens then stated that things that were on the city website should be done by city hall personnel.

Motion by Jason Macomson, seconded by Eddie Floyd to keep the website in the present form with the intentions of expanding it. Don Canady opposed, Kay McGlennen opposed. Mayor Owens opposed because Mr. Macomson's motion was to leave it in the same form as it is now, we can have a website, but not in the same form it is right now.

Councilman Jason Macomson asked for a roll call vote of the council as follows: Jason Macomson voting for leaving it, Eddie Floyd voting for leaving it, Don Canady voting to take it off, Kay McGlennen voting to take it off, and Mayor Owens voting to take it off. Motion denied.

Motion by Don Canady, seconded by Kay McGlennen to adjourn the meeting at 7:19 P.M. Motion carried.

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Ralph M. Owens, Mayor

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Angela V. Greer, City Clerk