

The Council of the City of Villa Rica met in a regular scheduled meeting on Tuesday, April 7, 2009 in the Council Chambers at 101 Main Street, Holt-Bishop Justice Center, Municipal Courtroom. Those present were Mayor J Collins; Councilmembers Perry Amidon, Verland Best, Woody Holland and Shirley Marchman; City Manager Larry Wood; City Clerk Reedell Saxon and City Attorney David Mecklin. Councilmember Joey Kelley was absent with notification. Approximately 57 people were in attendance.

Collins called the meeting to order at 7:00 p.m.

The invocation was given by Best. All recited the pledge of allegiance.

The minutes from the February 27, 2009 and March 3, 2009 meetings were presented. Amidon moved to approve the minutes, seconded by Marchman. Motion carried 4/0.

Wood presented the financial update for FY2008-09. The City has again finished the fiscal year "in the black". Combined cash accounts are \$8.3 million, approximately \$0.2 million under last year. General Fund revenues were \$8.7 million or 3.2% under projected budget but so were expenditures. Water and Sewer revenues and expenditures were also under budget at 8% and 7% respectively at approximately \$5 million each. Building permits brought in \$65,000 compared to over \$198,000 last year. Court fines were also down. Total expenditures for the fiscal year were 96% of the budgeted amount.

Collins asked the public to keep Zoning Tech Rita Peele and her family in mind due to her daughter's serious illness. Wood asked for the same for the family of Watershed Manager Jameson Greene as his mother recovers from a heart attack.

Under Old Business: Wood asked Council to continue making the \$10,000 donation to the Carroll County Chamber of Commerce and Carroll Tomorrow through the Hotel/Motel Tax revenues. Daniel Jackson, President and CEO, addressed Council and presented various information and literature on the Chamber's involvement in the City and ways the Chamber would continue to benefit the City. Holland asked about an industry which was thought to be slated for the Villa Rica area but was instead built in the south part of the county. Jackson said the particular industry in question was not suited for any of the sites in Villa Rica. However, there are currently five active industrial prospects looking at the Villa Rica area.

Interim Community Development Manager Taurus Freeman presented revisions to the sign ordinance for Council discussion as was instructed to Staff at the March meeting. He said changes were made in the requirements for non-conforming signs to allow replacement signs of the same height and square footage with the submission of a sign application detailing the existing/old sign and proposed signage. Freeman said the proposed revisions also create a new sign corridor along Punkintown Road/Mirror Lake Blvd, beginning at Dallas Hwy, and running south to Liberty Road at the City Limits. This corridor would allow signs to be two (2) feet taller than the current ordinance allows. This constitutes the first reading. The ordinance revision will be presented to the Planning and Zoning Commission and brought back to Council in May.

Under New Business: Wood read a portion of a letter from County Fire Chief Gary Thomas commending Villa Rica police officers for their handling of a volatile situation recently where the officers were assisting fire and rescue personnel with an unstable arson suspect inside a burning home. Wood thanked the officers as well. Those present applauded the officers.

Chief Michael Mansour presented the April 2009 Employee of the Month, Administrative Assistant Terri Bowles. Bowles was present to accept the plaque and check.

Freeman presented ABL-01-09, an application by Alina Gourmet, Inc., dba Lin's Garden of Atlanta, GA, for an alcohol beverage pouring license for Lin's Garden at 737 W. Bankhead Hwy. Freeman said the applicant has met all rules and regulations as shown in the Code of Ordinance and Staff recommends approval. Chang Heng Lin, co-owner of Lin's Garden was present to answer any questions from Council. After a brief discussion, Holland moved to grant the pouring license, seconded by Best. Motion carried 3/1 with Marchman opposed.

Freeman presented ABL-02-09, an application by Southeastern Pizza Group, LLC, dba Pizza Hut of Rockmart, GA, for an alcohol beverage pouring license for Pizza Hut at 189 Highway 61. Freeman said the applicant has met all rules and regulations as shown in the Code of Ordinance and Staff recommends approval. Best moved to accept, seconded by Holland. Motion carried 3/1 with Marchman opposed.

Freeman presented NA-01-09, a request by the City for nuisance abatement at 935 N Lassetter. Freeman said the City's investigation into the nuisance stemmed from several complaints received by the Police Department. A motor track was found in the rear of the property which appears to have involvement onto the adjoining property of the late Neal Brown. The City, the complainants and the owner of the nuisance property could not reach a resolution so the homeowner was served with notice to appear before the Mayor and Council for Council action. Chief Mansour told Council that complaints have been coming in for several months. Since August of 2008 ten 911 calls for police response have been logged for loud noise, loud music, and complaints involving loud motorcycles and 4-wheelers [all-terrain vehicles]. By the time officers get there the motorcycles are gone and 4-wheelers put up. Several neighbors have come to the Police Department to file complaints and officers have increased patrol in the area. However there are still some complaints continuing. Collins asked Mecklin to outline Council's path for resolution in the matter. Mecklin said this action, though not a criminal proceeding, amounts to a hearing with the City staff being the Prosecution and the homeowner(s) being the respondent. Collins called for a response from the homeowners at 935 N Lassetter if they so chose. Rocky Arrington, 935 N Lassetter Circle, addressed Council and said they have had the 4-wheelers only three months. He also said he owns three Harley's [Harley-Davidson motorcycles] and they are by nature loud. Arrington said they used to ride the 4-wheelers "up and down the street" until police officers asked them not to. Now they ride in their yard and back yard. Collins asked him how many 4-wheelers were involved. Arrington said there were his and those of two "buddies". Arrington said most of his neighbors do not have a problem with this. Collins asked where they ride. Arrington said he has a half-acre. The backside of the house has swamp and woods which his children have beat down over time by riding go-carts. Mecklin asked Arrington if the owners of the vacant land behind his house have specifically given him permission to ride on that property. Arrington said he knows he is on a portion of someone else's property and has tried to make contact but could only find a post office box address. Mecklin noted that the property owner recently passed away but his heirs or the administrators of his estate should be contacted. Collins asked Arrington what type of 4-wheelers he owned. Arrington said one was a "hunting kind" and the other two were the "racing kind". Best asked about the time of day there were ridden. Arrington said they never ride past dark or early in the mornings. Co-owner Cristal Arrington said they have lived at that location since 1992 and there is another 4-wheeler on another street in that same subdivision which could be mistaken for one of theirs. Collins opened the floor for comments on behalf of the Arringtons:

Janet Wagoner, 939 N Lassetter Circle, said the noise is hardly noticeable when she is inside her house.

Millie Pirkle, Arrington's sister at 932 N Lassetter, said the riders cannot be heard when they are riding in the woods.

Gregory Teasdale, 936 N Lassetter, said he works at night and sleeps during the day. He said the Arringtons don't ride until after he is already awake and do not bother him.

Speaking in opposition of the nuisance:

Jim Poss, 901 N Lassetter Circle, said he disagrees with Arrington's account. The motorcycles are big street bikes with no mufflers, which is against City ordinance and perhaps State law. Poss said they go up and down the street "full throttle" and do the same with their loud pick-up trucks. He said this happens every day but continuously on the weekends.

Sheila Lykins, 931 N Lassetter (6 years), disagreed with the Arringtons in that the noise is all day long and into the night at times. She said sometimes others come over and unload trucks full of 4-wheelers so that there are occasionally as many as eight at one time. It shakes her walls so that it has knocked a plate off the wall which broke. She said one of the boys was on a three-wheeler when she was mowing her yard recently. Ms Lykins said the boy passed close to her, gunned the engine and slung dirt on her, turned around and did it a second time. She said the neighbors sit outside her window and rev the engines to purposely harass her.

Gerald Walker, 401 Villa Trace (24 years), said his problem is motorcycles and that he recognizes Mr. Arrington as the person who has come by his house on the corner of North Lassetter Circle with a helmetless child riding on the bike with him. He said he has seen the riders pull off at the apartments when police are enroute and stay there until the police leave.

Bill Awalt, 301 Villa Trace (since 1988), agreed that the noise is loud and he can hear it inside his home in the furthest room from the noise. Neighbors feel intimidated and frightened. Mr. Awalt said one motorcycle has straight pipes but he could not be certain if it belonged to the Arringtons or a visitor. He also said that the numbers may not be as high as some say but when they do ride, they are loud and gotten louder in past two years.

John Rose, 926 N Lassetter, said he lives a little closer to the Arringtons than some of the others and the noise includes boom-boxes and trucks as well. He said he has asked the Arringtons to quiet the noise some but it did not help. He said he has even turned up his television to a high volume and cannot drown out the noise. Mr. Rose said this goes on, some days, all day long.

There being no further comments the floor was closed. Collins said anyone who wanted to speak again could speak during public comments later in the meeting. Collins said the police department will have to enforce the noise ordinance. This would involve purchasing an adequate decibel meter. Mecklin pointed out that the City needs to continue its attempt to contact the Brown Estate as they probably would not be in favor of the liability issues the riders create. Being confined to their own back yard might reduce the noise. After further discussion, Mecklin read the section of the City Code which defined when noise is a nuisance. He told Council they had three options when abating a nuisance: 1) Fashion some type of suggested remedy; 2) Impose reasonable regulations such as reasonable times; or 3) phase in a resolution to the nuisance to include issuing a warning as the first step, have the police department monitor the area and, if called back before Council a second time, impose more severe remedies. Wood said he would make contact with someone with the Brown family tomorrow. Holland said that it appears noise is indeed an issue here. If the Arringtons were limited to their own ½ acre there would not be as big a problem. Holland moved that, having heard the presentation and conducted a hearing in accordance with the City's ordinance, the City finds a nuisance does exist as a result of loud noise in a residential area and that it is hereby ordered to be abated by way of a warning to

the Arringtons to reduce the noise to a manner which is no longer objectionable to the community. Holland stressed that this does not preclude the homeowners from riding on their own property. Mecklin agreed. Best seconded but added that this is his subdivision and he knows there are several loud motorcycles which come and go and not all of them are coming from the Arringtons house. Mecklin noted that no punishment is being set nor is a defined limit being set. And while Council cannot legislate neighbors getting along with one another, they can hope for reasonable people doing the right thing. If not, and this come back before Council again and again, they would have the power to set up guidelines which would say, for example, there will be no 4-wheelers run in the entire neighborhood between set hours. Collins called for a vote. Motion carried 4/0.

Freeman presented ORD-09-04-CCO, an addition to the Streets and Sidewalks ordinance which would regulate the use of skateboards, roller skates, coasters, inline skates, motorized foot scooters, bicycles and similar devices within the city and prohibit the use in the Central Business District in order to improve safety and to prevent damage to sidewalks and park paths. Freeman said this ordinance addition would hopefully bring about more parental involvement and responsibility for the actions of the youth. Mecklin noted that the City did not have the authority to send those under 17 years of age to Municipal Court. He asked if the City had ever prosecuted youth in Juvenile Court under City Ordinances. If so, that would be the place for it. Chief Mansour said the only prosecution the City has brought in Juvenile Court was for traffic violations and other State law violations. Best said he would rather take a child to Juvenile Court than for Collins (Funeral Home) to get him. He would rather there be something to slap them on the wrist and they be alive than to have them be dead from a car hitting them. However, he added, if the Council is going to prohibit the youth from being on the sidewalks and streets, then consideration should be given to furnishing them with a place they can go. The City may have some property where such a park could be built. Other cities have skateboard parks so Villa Rica could have one also. Collins opened the floor for public comment.

Phil McGukin, who owns the Loft Apartments with Tom Large, said this has been a continuing problem which is worsening. While he has no problem with kids having fun, and he owned a skateboard when he was young, there is a difference when this starts affecting tenants and their privacy. Tenants have left because of the noise levels and fear of the groups of skateboarders. He said he is aware of a request to close the street in front of the apartments on April 25 for a skateboarding event. Mr. McGukin said the sidewalk along that street is actually a part of the Loft Apartments and a loose skateboard can shoot out from under the skater and hit someone and hurt them. Plus, if a youth falls, their injury could make Mr. Large and him liable. McGukin said a place for these youth would be a good idea and noted that there are usually crowds at the Carrollton skateboard park; however, he was concerned about the liability to the City.

Becky Lawrence, 1688 Hickory Level Road, owner of Trader Jack Designs which is located next door to the skate shop, said she doesn't have a problem with the management of the skate shop, however, potted flowers are knocked over or broken by patrons of the skate shop. She cannot have a bench in front her place because it gets vandalized. Over the past two weekends some of her customers have asked her weekend staff to call the police but they did not respond. When she went to the police station she found there is no ordinance to enforce the "no skateboarding" signs in the downtown area. Also, Ms Lawrence said, she has to escort her customers through the front door for the customers' safety if there are a lot of youth gathered on the sidewalk in front of her store. She fears someone will get hurt, including the skateboarders, if a solution is not found.

Patrick Hendrickson, owner of the Tin Roof Café at 110 Main Street, spoke in favor of both parties. He acknowledged the vandalism to some downtown shops. The skate board shop is a successful business but it is not in a good location from the aspect of the busy highway and surrounding businesses. He has talked to some of the youth about methods to obtain a skate park such as the Tony Hawk Foundation. He said the City could build such a park for what they spend on baseball and soccer uniforms. Mr. Hendrickson said if the City does not build a skate park then the city becomes a skate park. He said it is possible, as a community, to reach a solution which will benefit everyone.

With no other comments, the floor was closed. After further Council discussion, Holland moved to adopt the ordinance, seconded by Amidon. Mecklin suggested Council give direction to the Police Department as to how they want to enforce the ordinance. Chief Mansour said he would check with Juvenile Court on the prosecution of youth under 17. Collins asked Parks and Recreation Director Jeff Reese to comment on the possibility of a skate park. Reese said this is a form of recreation for youth who might not play baseball or soccer but are just important to the City and to Reese as well. He volunteered to work with Mr. Hendrickson and others to create a plan for a skate park. He will bring this before Council at a future meeting. Collins called for a vote. Motion carried 4/0.

Wood presented ORD-09-07-CCO an amendment to increase the fee for household garbage removal from the current \$15.50 to \$16.00 in order to reduce deficit in service funding. Wood said the rate set for Senior Citizens over 65 would still be calculated at a 25% reduction for a monthly rate of \$12.00. Holland moved to approve, seconded by Best. Motion carried 4/0.

Wood presented ORD-09-08-CCO, an amendment to Section 21-31 of Article II of the *Water and Sewerage Ordinance* to increase water and sewer rates for residential and commercial customers by five percent (5%) to maintain infrastructure and as was promised to Moodys when obtaining their rating in advance of the Municipal Bond sales. Wood said this would be an average of \$1.50 per household. After a brief discussion, Holland moved to use the price increase presented, seconded by Best. Motion carried 4/0.

Wood presented a resolution to amend the FY2008-09 budget so as to balance the 4th quarter of that fiscal year. Wood noted that there is no net change to the 08-09 budget bottom line. Holland moved to adopt the resolution as presented, seconded by Amidon. Motion carried 4/0.

Wood presented a resolution to eliminate the Retiree Medical Insurance benefit which currently bridges the coverage from time of retirement until the age of 65 when Social Security/Medicare begins. This will prevent the need for an expensive actuarial study this year. This benefit, which initially allowed any 10-year employee retiring at 55 or older to keep medical insurance with the City and the employee each paying one-half the monthly premium, would be “grandfather in” for the two retirees who are currently enrolled in it. Collins suggested keeping the benefit but limit the useable years such as beginning at age 62 until Medicare. Holland and Best agreed it needed some modifying. Best moved to table until May, seconded by Holland. Motion carried 4/0.

Wood presented a resolution to place a \$10,000 deductible on Worker’s Compensation incidents in order to lower the annual premium to the Georgia Municipal Association’s Worker’s Compensation Self-Insurance Fund. Wood said the City could save by maintaining a contingency fund to apply up to \$10,000 on each case of Worker’s Comp filed each year. Wood said in years with more than three cases the City would spend more, but in years with three or fewer cases the City would save or, at worst, break even. After a discussion, Holland moved to adopt, seconded by Best. Motion carried 4/0.

Wood presented the second reading of ORD-09-06-CCO, the Fiscal Year 2009-10 budget. Wood said the budget, overall, represents a “zero increase” over last fiscal year. All raises have been eliminated as Council instructed. Also, the only vehicles in this budget are the 3 patrol vehicles previously listed. Best was opposed to omitting raises. Wood said he would bring the possibility of merit increases back before Council in September if the revenue is better than anticipated. This would coincide with the expected increases in the employees’ contribution to the health insurance premiums. After some further Council discussion, Holland moved to adopt the budget as presented, seconded by Amidon. Initial vote carried the motion at 2/1 with Best opposed and Marchman abstaining. Marchman said she felt some of the cuts were from personal vendettas and that some of the approved expenses were minor in importance compared to job losses. Having said that she entered a vote to pass the budget bringing the vote to 3/1 with Best opposed.

Freeman presented a proclamation acknowledging the City’s commitment to an accurate count in the 2010 Census, especially due to the additional benefits associated with population growth. Holland moved to approve, seconded by Marchman. Motion carried 4/0.

Deputy City Manager, Utilities, Eric Lacefield provided an update on the Bay Springs Lift Station project. He outlined some options but noted that the City is still in discussion with affected property owners.

Holland led a discussion on what charges should be collected from park and recreation participants who do not live inside the City limits or within Carroll County. Reese told Council that Carroll County government provides an average of \$25.00 reimbursement to the City for Carroll County participants and that is the basis for the \$25 out of county fee in the written policy. There is no extra fee for soccer participants since Carroll County does not reimburse on that program. Reese said it would be more expensive to tie up staff verifying whether a participant is in or out of county. If the city on the participant’s application is Bremen, Temple or Villa Rica the actual location could be Carroll County or it could also be Haralson, Paulding or Douglas County (respectively). No action was taken.

Wood and Reese presented two items under Consideration of Services:

1. Architectural Engineers, design of City Complex project – Reese said he was pleased with the work done by MACTEC on the Spring Lake Park design. Since they were the low bidder on that project and the lowest of two quotes received on this project, Reese recommended using them for the architectural and civil drawings on the City Complex at their quoted amount not-to-exceed 6% of \$2.4 million. Following discussion, Holland moved to authorize the City Manager to enter into a contract with MACTEC for an amount not to exceed 6% of \$2.4 million, seconded by Best. Motion carried 4/0.
2. GovDeals. Wood recommended using this internet basis for auctioning city surplus property in the future. The City of Temple has received good results from this program. After discussion, Council took no action.

Wood presented three items under Consideration of Contracts:

1. Garrett, Stephens, Thomas and Fazio – Auditing of the FY2008-2009 financials. Wood said there was no change in scope from last year's agreement and the total audit would not exceed \$26,500. Best moved to approve, seconded by Holland. Motion carried 4/0.
2. Pitney Bowes – \$7380.00 for a five year lease of the postage stamp machine at City Hall. The \$123 per month lease is approximately \$20 per month less than the previous agreement. This price covers all parts and maintenance to the machine, every thing except the cost of postage stamps and regular supplies. Council discussed the contract; however, no action was taken.

3. Gaston Outdoor Advertising – The Villa Rica Board of Tourism has approved this contract; however, Mr. Gaston has not signed it as of this date. Holland moved to table until May, seconded by Best. Motion carried 4/0.

Wood presented a brief City update. The ground breaking ceremony for the West Water Reclamation Facility would be Wednesday, April 8, 2009. The City would host the April meeting of the Chamber of Commerce on April 13, 2009 at the Civic Center. There were sixty-two companies represented at the pre-bid conference for proposals on the abatement and demolition of the Avanti buildings which would be removed. The public information open house for the North Loop project was April 2, 2009 and was well attended. Representative Tim Bearden and State Senator Bill Hamrick are working on legislation to obtain state and federal funding for this project.

Collins opened the floor for public comment:

Mike Gill, 465 Daniel Road, expressed disappointment in Council for eliminated the Code Enforcement position. Collins told him code enforcement would still be accomplished through the Building Inspection department which used to handle this before the separate Code Enforcement position was created. Gill also suggested that Freeman, who is interim Community Development Manager, should be given the title permanently.

Jeff Reese thanked Chief Mansour and his officers for the professionally way they handled what could have been a very serious situation when an inmate escaped from a Douglas County work detail and could possibly have traveling toward the area of Pine Mountain while a group of elementary school students were on a field trip there. Reese said Villa Rica officers quietly surrounded the area to protect the students and that neither the students nor the adults with them ever knew anything was going on.

Jim Pack, 111 Berkley Drive, commented on some overgrown property he wanted the City to correct.

There being no further comments, the floor was closed.

Best moved to adjourn to Executive Session for the purpose of discussing pending legal matters and property acquisition, seconded by Marchman. Carried 4/0. Adjourned into Executive Session at 9:50 p.m.

Best moved to return to Open Session, seconded by Holland. Motion carried 4/0. Council reconvened at 10:13 p.m.

Mecklin made presentation on proposed terms of settlement of suit with the Brown Family LP. Holland moved to authorize the City Manager to sign the settlement agreement with Brown Family LP, second by Best. Motion carried 4/0

With no further business, Amidon moved to adjourn; seconded by Marchman. Motion carried 4/0. Council adjourned at 10:16 p.m.

J Allen Collins – Mayor

ATTEST:

Reedell Saxon – City Clerk