

The Council of the City of Villa Rica met in a regular scheduled meeting on Tuesday, November 4, 2008 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, Joey Kelley, Woody Holland and Shirley Marchman; City Manager Larry Wood; City Clerk Reedell Saxon and City Attorney David Mecklin. Approximately 44 people were in attendance.

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

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

Collins expressed condolences for the families of former City Manager Danny Mabry, local businessman Neal Brown and police department receptionist Debbie Whitaker, these having passed away within the previous two weeks.

The minutes from the October 7, 2008 meetings were presented. Amidon moved to accept as presented, seconded by Marchman. Motion carried 5/0.

Under Old Business: Collins presented first of two items for consideration of bids which, having been approved at the October meeting, had been vetoed by the Mayor. Vetoes must be overridden by a supermajority. Marchman moved to override the veto of purchasing two police vehicles. Best asked if the bid can be split [the veto was on two police vehicles and two pickup trucks for the Wastewater Plant and for Stormwater Management]. Mecklin said yes. Best seconded. Motion to override failed by less than a supermajority at 3/2 with Kelley and Holland opposed. Holland asked if Council is required to vote on the two pickup trucks. Mecklin said Council is not required to do so. No motion was forthcoming.

Collins presented the second item, the awarding of contract for residential garbage service. Holland asked if a vote must be taken concerning the veto or if Council could move on to select another provider. After some discussion, Holland moved to offer the contract to [the low bidder] Waste Industries at \$9.45 per month [per subscribed household] if they will in fact pick up the City's containers at no cost, seconded by Best. Motion carried 5/0.

Under New Business: Wood asked Parks and Recreation Department Director Jeff Reese to present the October Employee of the Month, Jessie Stewart. Stewart was on hand to accept the plaque and check. Collins expressed pleasure at the excellent job being done by Stewart on the floors and other areas of Gold Dust Park.

Collins presented a proclamation to honor Retired Educators. He asked Bernice Brooks, past president of the Carroll/Heard Retired Educators Association, to address Council. She thanked Council for the honor. All retired educators presented were asked to stand and be recognized. Collins asked Saxon to read the proclamation into the minutes prior to a vote. Following the reading, Holland moved to accept the proclamation as presented, seconded by Best. Motion carried 5/0.

Collins asked Council to consider an amendment to the agenda to add three items at the request of City Staff: Agenda item 12a, Consideration of Work order for design of the Bay Springs regional pump station, add to Agenda item 14, Payments over \$5000 a payment to Greystone Power for relocation of lines to the North Plant and a payment to Norfolk Southern Railroad for right-of-way access for sewer lines at the new West Plant. Kelley so moved, seconded by Holland. Motion carried 5/0.

Community Development Manager Taurus Freeman presented CU-05-08 a request by Josephine Coomber for conditional use at 500 Firethorn Court for a personal care home. The Planning and Zoning Commission has recommended postponement. Holland moved to postpone this until item until it can be acted upon by the Planning and Zoning Commission, seconded by Kelley. Motion carried 5/0.

Prior to the presentation of RA-07-08, Freeman handed out copies of a constitutional challenge by the applicant, West Georgia Ambulance, Inc. In answer to Council questions about this course of action, Mecklin said this type of document is typically presented in cases of rezoning applications which raise the issue that the rezoning is required constitutionally. Holland asked for the record to reflect that Council does not usually receive this type of document. Freeman presented the application which is a request for rezoning of approximately 1.2 acres at 71 Edge Road from Rural Development (RD) to General Commercial (GC) for the purpose of an emergency ambulance service. The Planning and Zoning Commission recommended denial, however Staff recommends approval based on the City's Future Land Use Map. Sam Price, attorney for the applicant, and Steve Adams, owner of West Georgia Ambulance Service addressed Council. Price said he also represents the property owner, Tommy King. Price said the aforementioned document was presented in the event the request was denied. Price point out that the property is surrounded by a Georgia Power substation to the west, Georgia Power undeveloped property to the south, a vacant tract to the east which is O & I [Office and Institutional] and belongs to Wilson Corner LLC and property to the north is which belonged to Neal Brown zoned O & I. Also across Edge Road to the north are three tracts zoned Light Industrial with heavy truck traffic. Price pointed out there is constant noise from Interstate 20 at this property and the only permitted activity in RD is single family residential, bed & breakfasts, and agriculture type classifications. Therefore, there is no value to the property in that classification and in essence has been confiscated. Price said the property, once rezoned to commercial, would become the new location of the West Georgia Ambulance Service from the previous location on South Carroll Road thereby keeping it in the City Limits. Price also said the original action had been to file for rezoning to O & I until they learned this type of business is only allowed in GC. Also, the majority of calls, which Price said average seven to eight calls per day, will be to the west of this location toward Daniel Road since this business does not service Douglas County except in a disaster where mutual aid is required. Adams said his drivers do not usually activate the siren until there is a need for traffic notification. Collins asked about the average response time. Adams said it is seven to eight minutes, which is lower than the national average. Kelley asked if this was a situation in which ambulance services were inadvertently omitted in O & I. Mecklin said that is possible but the issue has not been raised to date. Collins opened the floor for public comment.

Danny Carter, 421 Edge Road, spoke in opposition stating the City had previously agreed to keep the south side of Edge Road as O & I as a buffer to the residential areas south of Edge Road. Carter provided an aerial photo of the houses in the area and said the sound of the siren would wake those trying to sleep.

Richard Cangemi, Edge Road spoke in opposition. He said O & I would be fine, but not for this purpose. Kelley asked about the direction of travel of Cangemi's trucks from East-West Trucking to I-20. Cangemi said they travel Edge Road and have been for twenty years.

Robert Francis, 125 South Wilson Road, said applicant's site adjoins his property. He said the area dogs bark at the sound of sirens and school buses travel the area picking up

and delivering children. Francis, who is a member of the Planning and Zoning Commission, pointed out that this was given a unanimous vote to deny at the October meeting.

Janet Heilman, 44 Maple Valley Drive, also spoke in opposition of this property being zoned as GC. Particularly she was opposed to the noise of sirens affecting those trying to sleep.

Tommy King, property owner, spoke in favor of the rezoning and said his property would be worthless if it remains RD. He pointed out that he has been in public safety for twenty-seven years and ambulance drivers use due care and caution. Edge Road has a lot of large truck traffic now. He also noted that Douglas County just built a fire station next to the elementary school.

Prissi Sullivan, North Avenue, said even though she lives one block from the train tracks she doesn't hear it anymore. Nor does she hear the ambulances which travel down North Avenue en route to the hospital.

Larry McGlocton, 360 South Wilson Street, said his wife has cerebella and he would be grateful for an ambulance service being close. He said if that siren is coming to the rescue of a family member one would not be bothered by the noise then.

Bernice Brook, 760 Reid Road, said that if response time is the factor in saving lives, this is the ideal location. She said she supports this rezoning.

There were no further comments; the floor was closed. Marchman asked if the ambulance would always be at that location if not on a call. Shane Bell, Director of Operations for West Georgia Ambulance Service, said that, other than being called to a midway location for coverage, the ambulance would be there when not on calls. He pointed out that there are a total of five [ambulance] stations throughout Carroll County. Holland noted that this is a zoning issue and, while the immediate intent is for an ambulance service, if zoned GC then anything could go there in the future. He agreed that Council's intent has been to keep the south side O & I. Collins asked Mecklin why an ambulance would not be allowed in O & I. Mecklin read the definition of GC and O & I to Council. The latter allows "offices for professional services". He said it is within the power of Council to interpret the code to include ambulance services in O & I, although there would have to be the appropriate notification time to rezone the property to O & I. Freeman said his research has shown that other municipalities throughout the state allow ambulance services in both General Commercial and in O & I. After further discussion, Holland moved to deny the request based on the Council's history of keeping the south side of Edge Road as O & I. Motion died from lack of second. Collins suggested Council should change the code to allow ambulance services in Office and Institutional then the property could be resubmitted to be rezoned to O & I. Council talked about having the FLUM changed to specify O & I for the south side of Edge Road. Best moved to table this until the next meeting, seconded by Amidon. Motion carried 4/1 with Holland opposed. Freeman asked if it was the wish of Council for him to bring back a change to the O & I. Mecklin suggested the City Manager could initiate this from the discussion at this meeting and bring it before Council after the appropriate notification.

Freeman presented ORD-05-08-CD, an ordinance to amend the Unified Development Code to place a forty-five day time frame on seasonal sales items, specifically Christmas tree sales and retail pumpkin sales. Collins opened the floor for public comment. There being none the floor was closed. Holland moved to amend the ordinance as presented, seconded by Kelley. Motion carried 5/0.

Wood presented a resolution for Council to approve the acceptance, at the request of the West Georgia Soil & Water Conservation Commission, of the earthen dam at Lake Fashion, Structure #29, and at Cown Lake, Structure #31 for maintenance by the City. Mecklin asked

if the City has made any evaluation under the Safe Dams Act as to the current condition of the two structures. Wood said there is no eminent failure. Holland moved to accept, seconded by Kelley. Motion carried 5/0.

Wood presented a Consideration of Worker Order to Rindt-McDuff for the design of a regional lift station on City property at Bay Springs which would eliminate the Bivens Road and Club Bay lift stations. Holland moved to approve, seconded by Kelley. Motion carried 5/0.

Wood asked for approval of an agreement received this date whereby Greystone Power would remove overhead power lines on the old drive to the North Wastewater Treatment Plant, which is off Conner Road and install underground wiring along the new driveway off Mirror Lake Parkway. This would be a net cost to the City of \$19,128.43 which would be covered with Douglas County SPLOST funds. Kelley moved to approve the payment, seconded by Holland. Motion carried 5/0.

Wood asked for approval of a license agreement with Norfolk Southern Railroad to use a portion of their right-of-way as easement to connect the old West Plant with the new Plant. This agreement would be for a one time payment of \$53,000. Council asked if there are other options. Deputy City Manager Eric Lacefield said there are wetlands and buffers to the south therefore this is the only access. After some discussion Holland moved to postpone this decision and attempt to negotiate this sum, seconded by Best. Motion carried 5/0.

Wood asked Reese to present six items for Consideration of Bids:

1. Regarding the two story concession stand/public restrooms at the Sports Complex:
 - a. Standing Seam Roof System (with 30-year warranty on paint, 25-years on material and one year on workmanship). Holland moved to go with the low bidder, Tyson Herrell Contracting at \$7,033, seconded by Kelley. Motion carried 5/0.
 - b. Glass windows. Kelley moved to approve the low bidder, Porter's Auto Glass, at \$5,159, seconded by Holland. Motion carried 5/0.
 - c. Metal/concrete steps. Kelley moved to approve the low bidder, Southern Railing and Stair, for \$6220, seconded by Holland. Motion carried 5/0.
2. Regarding the Training Center building at the Sports Complex:
 - a. Design and building of trusses. Holland moved to go with the low bidder, Quality-Built Trusses at \$8,418, seconded by Kelley. Motion carried 5/0.
 - b. Blanket purchase of 7590 concrete blocks for both buildings. Kelley moved to approve the low bidder, Home Depot at \$2.20 per block up to \$16,698 total, seconded by Marchman. Motion carried 5/0.
 - c. Blanket order for Concrete Block Mason. Kelley moved to approve the low bidder, Danny Lee Orr at \$1.25 per block up to \$15,000 total, seconded by Holland. Motion carried 5/0.

Wood presented one additional item for Payments over \$5000:

1. Motor & Gear Engineering, \$12,796 for the repair and fabrication of parts for the flocculator at the Water Plant. Holland moved to approve the payment provided Motor & Gear submit an invoice which more accurately reflects the service provided, seconded by Kelley.

City Update

Wood announced he will begin providing monthly cash updates to Council. Currently the City has \$6.4 million in the combined cash accounts; \$6 million is water revenue. Currently

the City is \$70,000 under the anticipated revenues due to a delay in a state insurance franchise fee revenue check. However, expenditures are \$101,000 under budget. The State DOT has notified the City that a traffic signal is not warranted at the Rocky Branch/Hwy 78 intersection. December 1, 2008 is the deadline for the installation and annual testing of backflow devices at commercial and industrial sites. Wood asked Council to consider the type of action to be taken toward violators.

Collins opened the floor for public comment. Wood reminded those present to support the cultural arts in Villa Rica by attending the play at the Civic Center on Thursday. There being further comments, the floor was closed.

Holland moved to adjourn into Executive Session for the purpose of discussing pending legal matters and real estate, seconded by Kelley. Motion carried 5/0. Adjourned to Executive Session at 8:45 p.m.

Council went into executive session for purpose of discussing pending legal matters and acquisition of real estate.

Best moved to return to regular session, seconded by Holland. Returned to regular session at 9:05 p.m.

Collins called on Mecklin to outline action discussed in Executive Session. Mecklin presented proposal to Council to settle case of Brown Family, LP v. City of Villa Rica pending in Superior Court of Carroll County. Suit would be settled for total sum of \$345,000 which would fully compensate the Plaintiffs for the sewer easements transferred to the City in 1998 and would fully and finally settle any outstanding claims related to the same. Mecklin outlined other terms which would be incorporated into the final settlement agreement. Motion to approve the settlement subject to the final settlement language being approved by the City Attorney made by Kelley, seconded by Best. Motion was amended to authorize the Mayor and Clerk to sign the Settlement document when approved by City Attorney. Motion as amended passed 5-0.

With no further business, Marchman moved to adjourn, seconded by Amidon. Motion carried 5/0. Council adjourned at 9:10 p.m.

J Allen Collins – Mayor

ATTEST:

Reedell Saxon – City Clerk