

CITY OF MOUNTAIN PARK

Regular Meeting of Mayor and Council

November 22, 2010

Community Building

CALL TO ORDER-Mayor Still called the meeting to order at 7:07 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Mayor Jim Still, Council Members Don Carlson, Bob Douds, Scott Hegg, John McLaughlin and Marvin Penick, City Attorney, Brandon Bowen, and City Clerk, Karen Segars.

DISPOSTION OF ABSENCES

McLaughlin moved to excuse the absence of Hegg from the October 25, 2010 council meeting. 2nd by Carlson. Approved 4-0-0(Hegg). Hegg stated his absence was due to illness.

FINANCIAL REPORT

Segars gave the following financial report:

Ending Bank Balances as of 10/31 are:

General Fund \$ 83,641.46

Enterprise Fund \$527,855.81

Court \$ 5,380.28

Lake Restoration Fund \$203,602.00

SPLOST \$ 7,824.79

EECBG \$ 22,604.60

TOTAL \$850,908.94

Performance for the month of October:

Revenues General Fund: \$ 43,344.74

Expenses General Fund: \$314,117.87

Net Income: \$(270,773.13)

Revenues Enterprise Fund \$ 18,225.67

Expenses Enterprise Fund \$ 18,617.05

Net Deficit Income \$ (391.38)

APPROVAL OF MEETING MINUTES

McLaughlin moved to waive the reading and adopt the minutes from the Regular Meeting held October 25, 2010. 2nd by Carlson. Approved 5-0-0.

Mclaughlin moved to waive the reading and adopt the minutes from the Budget Hearing held October 27, 2010. 2nd by Carlson. Approved 5-0-0.

McLaughlin moved to waive the reading and adopt the minutes from the November 4, 2010 Special Called Meeting. 2nd by Carlson. Approved 5-0-0.

McLaughlin moved to waive the reading and adopt the minutes from the November 10, 2010 Special Called Meeting. 2nd by Carlson. Approved 5-0-0.

McLaughlin moved to waive the reading and adopt the minutes from the November 17, 2010 Special Called Meeting. 2nd by Carlson. Approved 5-0-0.

## ADOPT MEETING AGENDA

Still added a resolution supporting the trail grant for approval. McLaughlin moved to approve the agenda, as amended. 2nd by Carlson. Approved 5-0-0.

## MAYOR'S REPORT

### 1. Changing Dates of December meetings

Still advised the December meetings would be changed to December 15 and December 20 for the Work Session and Regular Council meetings, respectively, to accommodate the holidays.

Still noted the upcoming paving of Lake Cherful Dam, with Cherokee County performing the work and paying the costs.

Still stated his attendance, along with Carlson and Segars, at the North Fulton Municipal Associations Legislative Luncheon held on November 19. Items of discussion with the legislative delegation were the 1% Transportation bill and Service Delivery Strategy enforcement.

## COMMITTEE REPORTS

### Administrative/Legal/Finance

No report.

### BZP

#### 1. Comprehensive Plan

McLaughlin advised this update was due in 2011 and would be a state mandated five year plan. He noted a public hearing would be held January 12 for input to develop the vision statement and direction of projects for the city.

McLaughlin thanked Robert Bennett for the sign restoration at the city's entrance. He stated Mr. Bennett wished to repair the directional signs at Lakeshore drive and noted the city would pay approximately \$100 for materials.

### Lakes/Parks/Recreation

#### 1. Resolution and Letter of Support for Walking Trail Grant

Hegg stated a grant was being sought, ranging from \$25,000 to \$100,000 for North Shore trail

development, however required three entities to serve as sponsors, one of which would be the city. Hegg moved to approve a resolution and letter of support serving to name the city as a sponsor. 2nd by Penick. Discussion was heard regarding potential liability and the previous land acquisition. Approved 5-0-0.

Property

Penick stated RFP's had been posted for 2011 pool management.

Public Safety

Chief Reeves noted Santa Run being held on December 11. He also noted continued speed hump painting investigation.

Roads & Streets

No report.

Utilities

No report.

AUDIENCE

Still thanked everyone in attendance and opened the floor for public comment.

Bill Robertson the case was not as strong as one thought and the judge had ruled the city could not get legal fees. He stated he did not feel the case would be won on appeal. He also stated he felt the city had received bad advice regarding the previous settlement offer.

Mark Hildebrand advised the jury did not follow the judge's instructions and recommended waiting for the judge's ruling.

Daria Pardue recommended appeal only if on a contingency basis.

Keith Ridgway recommended a lake maintenance program

Claire Johnson advised a contingency would have sacrificed clean up of the lakes. She also recommended waiting for the judge's ruling, stating the verdict was not legal and could not stand as written.

Steve Goldsmith expressed his support for waiting on the judge's ruling.

Ben Counter noted the dredging of the lakes in 1980 and early 2000. He also recommended waiting on the judge's ruling.

George Menden advised the judge had excluded the evidence on the lake clean up costs. He asked what basis for appeal could be used, as well as clarity on the impact of not guilty verdicts on the Clean Water Act with regard to the defendant's attorneys fees.

Martin Shelton confirmed the city was not able to seek compensatory damages based on the judge's ruling against the matrix. He noted this as a basis for appeal. He also stated Rule 68 would not apply because the city had survived summary judgment three times and a directed verdict two times, therefore the lawsuit was not frivolous.

Robertson asked for the basis for appeal. Shelton stated the ruling on the matrix, as well as the inconsistencies in the verdict.

Jan Crawford asked council to wait for the judge's ruling.

Jeffrey Johnson asked for clarity on the range of possibilities regarding the Clean Water Act violations. Shelton stated worst case would be next to nothing, however, best case could be clean up of the lakes, attorney fees of \$600,000 and \$552 in civil penalties.

Goldsmith asked if there would be additional expense to wait on the judge's ruling. Shelton advised to the negative. Goldsmith recommended preserving the right to appeal.

Amy Bonk asked what the choices the city has right now. Brandon Bowen responded by saying decisions need to be made with regard to each defendant.

Chris Jones asked what was to be lost. Still noted the payment of the defendant's legal fees.

Gigi Robinson stated no offer had been made.

Paul Schloss noted two defendants had been found not guilty of the Clean Water Act. Shelton agreed, however noted they had been found guilty of riparian rights, which the state version of the Clean Water Act.

Linda Woodward advised proceeding with settlement would jeopardize the city's position and would have negative consequences prior to the judge's ruling and also recommended a plan for proceeding with the lakes clean up.

Blake Silver expressed the need for waiting on the judge's ruling.

Terry Wenham inquired as to the basis for appeal. Shelton advised it would be a combination of both previously stated items.

Johnson noted all defendants had been found guilty of something.

Menden asked for clarity regarding the fee recovery under the Clean Water Act and Rule 68. Bowen stated the defendants had set forth several reasons and were seeking attorney fees as the prevailing party. It was noted the judge would consider finding of fact and conclusions of law prior to issuing his ruling.

Dennis Hendrickson asked if the two defendants found not guilty of the Clean Water Act had

offered in writing. It was noted nothing had been received in writing.

Hope Mays stated it would cost each household \$7,000 to pay the defendants attorneys fees.

Robinson asked if injunctive relief could be sought for clean up of the lakes. Shelton responded affirmatively.

Carol Silver recommended waiting for the judge's ruling.

A recess was taken from 8:45 p.m. until 8:56 p.m.

#### EXECUTIVE SESSION

McLaughlin moved to go into executive session to discuss lake litigation. 2nd by Douds.  
Approved 5-0-0. 8:57 p.m.

#### ADJOURN

McLaughlin moved to reconvene regular session. 2nd by Carlson. Approved. 5-0-0. 9:55 p.m.

Penick moved to adjourn. 2nd by Carlson. Approved 3-2(McLaughlin and Douds)-0. 9:56 p.m.

---

Jim Still, Jr., Mayor

---

Karen Segars, City Clerk