

City Council Meeting
10 N. Public Square
August 15, 2013
6:00 P.M. – Work Session 7:00 P.M.

I. Opening Meeting

Invocation by Council Member Tonsmeire

Pledge of Allegiance led by Council Member Hodge

The City Council met in Regular Session with Matt Santini, Mayor presiding and the following present: Kari Hodge, Council Member Ward One; Jayce Stepp, Council Member Ward Two; Louis Tonsmeire, Sr., Council Member Ward Three; Lindsey McDaniel Council Member Ward Four; Dianne Tate, Council Member Ward Five; Lori Pruitt, Council Member Ward Six; Sam Grove, City Manager; Connie Keeling, City Clerk and Keith Lovell, Assistant City Attorney. David Archer, City Attorney was absent.

II. Regular Agenda

A. Commendation/Recognition

Tommy Culpepper, Police Chief stated that on August 9, 2013 an off duty officer, Josh Downer came upon an accident on Highway 411 in Cartersville. When Officer Downer removed the victim from the vehicle he noticed that he had no pulse and immediately began CPR and continued until Emergency Personnel arrived. Chief Culpepper stated that he would like to commend Officer Downer for his heroic actions. Officer Downer thanked the Chief, Mayor, and Council for their support.

B. Council Meeting Minutes

1. August 1, 2013

A motion to approve the August 1, 2013 City Council Meeting Minutes as presented was made by Council Member Hodge and seconded by Council Member Stepp. Motion carried unanimously. Vote 6-0

C. Second Reading of Ordinances

1. Ordinance Revision – Burial Vault Requirement

Tommy Sanders, Public Works Director stated that this proposed ordinance revision will require that a burial vault or grave liner shall be used in all sections of the cemetery and in any additions made to the cemetery hereafter. Vaults and liners can be made of concrete, steel, plastic, or any other material approved by the cemetery sexton. The current ordinance only requires vaults or liners in the new section. The purpose of the burial vaults or liners is to protect the casket from the weight of the earth and the equipment used in the maintenance of the cemetery property. Mr. Sanders stated that there have been no additions or corrections since the first reading and recommended approval

A motion to approve Ordinance No. 17-13 was made by Council Member Tonsmeire and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 17-13

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, that the Code of Ordinances, City of Cartersville, Georgia is hereby amended by making the following amendments to CHAPTER 7. CEMETERIES ARTICLE II. MUNICIPAL CEMETERY. Section 7-26 SPECIAL REGULATIONS. is hereby amended by deleting paragraph (13) in its entirety and replacing it as follows.

1.

Sec. 7-26.

(13) A burial vault or grave liner shall be used in all sections of the cemetery and in any additions made to the cemetery, hereafter. Vaults and liners can be made of concrete, steel, plastic, or any other material approved by the cemetery sexton.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia. The remaining provisions of Section 7-26 shall remain unaltered.

BE IT AND IT IS HEREBY ORDAINED

First Reading this the 1st day of August 2013.

ADOPTED this the 15th day of August 2013. Second Reading.

/s/ Matthew J. Santini

Matthew J. Santini

Mayor

ATTEST:

/s/ Connie Keeling

Connie Keeling

City Clerk

D. Public Hearing – 1st Reading of Zoning/Annexation Requests

1. File AZ13-02: Annexation application by Marlon Lashawn Harris for property located at 11 Green Acre Lane (approximately 0.49 acres) to annex for City Services (property would, if annexed be zoned R-20)

Randy Mannino, Planning and Development Director, stated that the Public Official Forms have been received and there are no conflicts of interest. All adjacent property owners have been notified and the required legal notices have been advertised. Mr. Mannino requested that the application and zoning ordinance be made part of the official record. Copies of the adopted procedures and zoning standards are available upon request. Mr. Mannino stated that this tract is located at 11 Green Acre Lane off Little Valley Road includes a single-family residence built in the 1970's. This property is part of a donut hole in unincorporated Bartow County and if the annexation is approved the zoning would be R-20 (Single Family Residential). The applicant has stated that he would like to be annexed in for City Services. Mr. Mannino stated that staff had no objections for this use and the Planning Commission recommended approval.

Mayor Santini opened the floor for a public hearing on File AZ13-02 and with no comments Mayor Santini closed the public hearing.

NO ACTION REQUIRED

Ordinance

of the

City of Cartersville, Georgia

Ordinance No.

Petition No. AZ13-02

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by Marlon Lashawn Harris. Property is located 11 Greenacre Lane. Said property contains 0.49 acres located in the 4th District, 3rd Section, Land Lot(s) 17 as shown on the attached plat Exhibit “A”. Annexation will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 15th day of August 2013.
ADOPTED this the day of. Second Reading.

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

Ordinance

of the

City of Cartersville, Georgia

Ordinance No.

Petition No. AZ13-02

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by Marlon Lashawn Harris. Property is located 11 Greenacre Lane. Said property contains 0.49 acres located in the 4th District, 3rd Section, Land Lot(s) 17 as shown on the attached plat Exhibit “A”. Property is hereby rezoned from County C-1 (Commercial) to R-20 (Single Family Residential). Zoning will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 15th day of August 2013.
ADOPTED this the day of. Second Reading.

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

2. File SU13-04: Special use application by Randy Wimpy (Shep Helton, representative) for property located at 416 and 420 North Tennessee Street (approximately 0.38 acres) to allow expansion of an auto business onto this property.

Randy Mannino, Planning and Development Director, stated that the Public Official Forms have been received and there are no conflicts of interest. All adjacent property owners have been notified and the required legal notices have been advertised. Mr. Mannino requested that the application and zoning ordinance be made part of the official record. Copies of the adopted procedures and zoning standards are available upon request. Mr. Mannino stated that these lots near the intersection of Martin Luther King Junior Drive formerly contained single family residences which were cleared from the lots many years ago. The applicant has operated a used automotive business on the adjacent lot for many years and now proposes to expand his business to operate on these lots. Mr. Mannino stated that staff had no objections for this use and the Planning Commission recommended approval.

Mayor Santini opened the floor for a public hearing on the Special Use Application. Shep Helton came forward on behalf of Mr. Wimpy and stated that Mr. Wimpy has been at his current location for many years and is aware of the required changes should this Special Use application be granted. With no further comments Mayor Santini closed the public hearing.

NO ACTION REQUIRED

Ordinance

of the

City of Cartersville, Georgia

Ordinance No.

Petition No. SU13-04

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by Randy Wimpy. Property is located 416 and 420 North Tennessee Street. Said property contains 0.38 acres located in the 4th District, 3rd Section, Land Lot(s) 383 as shown on the attached plat Exhibit "A". Property is hereby granted a Special Use to expand the adjacent auto lot north onto these M-U Lots. Zoning will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

**First Reading this the 15th day of August 2013.
ADOPTED this the day of. Second Reading.**

**/s/ Matthew J. Santini
Matthew J. Santini
Mayor**

ATTEST:

**/s/ Connie Keeling
Connie Keeling
City Clerk**

E. Grant Application/Acceptance

1. GDOT Local Maintenance Improvement Grant

Tommy Sanders, Public Works Director stated that this is a request for approval for the Mayor to sign the Local Maintenance Improvement Grant Application. The grant amount is determined by an allocation formerly that includes population and road miles with the City's allocation for this fiscal year being \$178,580.06. This grant does require a 30% match of \$51,000.00 and will be used for the city's resurfacing program. Mr. Sanders recommended approval.

A motion to approve the Mayor to sign for the Local Maintenance Improvement Grant

Application was made by Council Member Stepp and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

F. Bid Award/Purchases

1. Rebuild of Number 1 Screw Lift Pump at Water Pollution Control Plant

Ed Mullinax, Assistant Water Superintendent stated that the Primary Screw Lift Pump Number 1 at the Water Pollution Control Plant is in need of rebuilding. This work involves welding of a steel plate to the edges of a large auger. Bid requests were sent out to three local welding contractors; however two declined to submit bids. Therefore Mr. Mullinax recommended approval of the bid from Southern Machine & Fabrication in the amount of \$22,600.00.

A motion to approve the bid from Southern Machine & Fabrication was made by Council Member Stepp and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

2. Air Conditioner Replacement for the North Electrical Building at the Water Pollution Control Plant

Ed Mullinax, Assistant Water Superintendent stated that the air conditioner for the North Electrical Building at the Water Pollution Control Plant is in need of replacement. There are electrical drives housed in this building which require cooling. Staff requested bids from local companies and Mr. Mullinax recommended approval of the low bid from Weaver Heating and Air, Inc. in the amount of \$8,395.93.

A motion to approve the low bid from Weaver Heating and Air, Inc. was made by Council Member McDaniel and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

3. Roadway Lighting Materials for Highland 75 Industrial Park

Don Hassebrock, Electric Department Director stated that the staff needs to purchase poles, bases, and lighting fixtures for the Highland 75 Industrial Park. Stuart C. Irby Company is the sole source provider for the standard GE Lighting Fixtures and Valmont Poles used by the City Electric Department. Mr. Hassebrock recommended approval of this purchase in the amount of \$13,326.60

A motion to approve the purchase from Stuart C. Irby Company was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 4-0

4. Vertical Separator for Gas Department

Gary Riggs, Gas Superintendent stated that due to high instantaneous flow rates, they have been experiencing problems with particulates being carried into the metering station at Gerdau. This is causing an erosion problem in the pressure regulators. Mr. Riggs stated that the Peerless Dry Scrubber should allow the particulates to drop out and not be carried into the metering station. Mr. Riggs recommended approval of this purchase from the sole source provider, Bartlett Controls, in the amount of \$17,823.00.

A motion to approve the purchase from Bartlett Controls was made by Council Member Tonsmeire and seconded by Council Member Stepp. Motion carried unanimously. Vote 6-0

5. State Board of Workers Compensation Annual Assessment

Tom Rhinehart, Finance Director stated that since the city is self insured under workers compensation coverage, the city is assessed annually a fee from the State Board of Workers Compensation. This fee is based on job classification and payroll. For the fiscal year 2013-14 the annual assessment is \$5,301.43 and Mr. Rhinehart recommended approval.

A motion to approve the Workers Compensation Annual Assessment Payment was made by Council Member Stepp and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

G. Resolutions

1. Department of Revenue Information Exchange

Sam Grove, City Manager stated that passage of this resolution will allow the City to share information with the Georgia Department of Revenue. Mr. Grove stated that this is being proposed in an effort to insure that local sales taxes are paid and collected accurately and recommended approval.

A motion to approve Resolution No. 14-13 was made by Council Member Tonsmeire and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

**STATE OF GEORGIA
COUNTY BARTOW**

Resolution No. 14-13

RESOLUTION TO PARTNER WITH THE GEORGIA DEPARTMENT OF REVENUE IN AN EFFORT TO ENSURE PROPER PAYMENT OF SALES TAX

WHEREAS, O.C.G.A. § 48-13-20.1 provides for cities and counties that levy a n occupation tax or regulatory fee under Title 48, Chapter 13, Article of the Code of Georgia to collect and submit certain information to enable the Georgia Department of Revenue to ensure that businesses are properly compliant with state and local sales tax laws; and

WHEREAS, in order to participate in this voluntary program, the governing authority of the city or county must adopt a resolution consenting to the applicability of O.C.G.A. § 48-13-20.1; and

WHEREAS, the City of Cartersville levies an occupation tax and/or regulatory fee under Title 48, Chapter 13, Article I of the Code of Georgia; and

WHEREAS, the Mayor and the Council of the City of Cartersville desire to have the City of Cartersville participate in this voluntary program;

NOW, THEREFORE BE IT RESOLVED by the Mayor and City Council that they hereby consent to the applicability of O.C.G.A. § 48-13-20.1 and pursuant thereto the City of Cartersville shall participate in the Georgia Department of Revenue's program to verify that businesses paying occupation taxes and regulatory fees are also paying their state and local sales tax.

BE IT FURTHER RESOLVED that, upon adoption of this Resolution, any person who performs any business, occupation or profession subject to an occupation tax or regulatory fee under Title 48, Chapter 13, Article I of the Code of Georgia is required to provide the City of Cartersville the following information when paying such occupation tax or regulatory fee:

- (a) The legal name of the business;**
- (b) Any associated trade names for the business;**
- (c) The mailing address for the business;**
- (d) The actual physical address of each location of the business, if it is different than the mailing address;**
- (e) The North American Industry Classification System Code (NAICS)**

- applicable to such business; and,
- (f) The sales and use tax identification number assigned to the business by the Georgia Department of Revenue, if the business is required by law to have such a number pursuant to Title 48, Chapter 8, Article I, of the Code of Georgia.

BE IT FURTHER RESOLVED that the City of Cartersville shall provide written notice to all persons subject to the City of Cartersville occupation taxes or regulatory fees and that:

- (a) This information shall be provided to the Georgia Department of Revenue; and
- (b) If the person refuses or fails to provide the required information, the City shall notify the Georgia Department of Revenue of this fact.

BE IT FURTHER RESOLVED that, within thirty (30) days after receiving the payment of occupation taxes or regulatory fees, the City of Cartersville shall electronically submit the information received from each business to the Georgia Department of Revenue.

BE IT FURTHER RESOLVED that a copy of this executed Resolution shall be immediately transmitted to the Commissioner of the Georgia Department of Revenue.

ADOPTED this the 15th day of August 2013.

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

Mayor Santini stated that there were two items to be added to the agenda. A motion to add an item to the agenda was made by Council Member Stepp and seconded by Council Member McDaniel. Motion carried unanimously. Vote 6-0

H. Added Item

1. Etowah Drive Water Main Replacement Project Bid Withdrawal Request

Ed Mullinax, Assistant Water Superintendent stated that they had received bids for construction of the Etowah Drive Water main Replacement Project on August 8, 2013. Astra Grading and Pipe, LLC of Woodstock, Georgia was the apparent low bidder. Their bid was approximately \$340,000.00 lower than the next lowest bidder. After subsequent review of their bid Astra submitted a request to withdrawal of their bid without forfeiture of their bid bond due to an appreciable error they discovered. Mr. Mullinax stated that they had submitted this request within 48 hours of the bid opening and provided documentation and evidence of their error as required by law. Mr. Mullinax recommended that council grant the request to withdraw their bid and refund the bid bond.

A motion to approve the withdrawal of the bid and reimbursement of the bid bond was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

2. Ante Litem Notice from Curtis Law Group, P.C. concerning Juan Nunez Morales

Keith Lovell, Assistant City Attorney stated that on July 31, 2013 Juan Nunez Morales

filed a claim that he had fractured his elbow due to an incident at the Cartersville Civic Center at 435 West Main Street on March 10, 2013. Mr. Lovell stated that based on the information available he is recommending approval of this Ante Litem Notice,

A motion to approve Resolution No. 15-13 was made by Council Member Stepp and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

RESOLUTION NO. 15-13

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF CARTERSVILLE, GEORGIA

WHEREAS, on or about July 31, 2013, the City of Cartersville received an Ante Litem Notice from Curtis Law Group, P.C. concerning Juan Nunez Morales' alleged claim against the City relating to a fractured elbow due to an incident that occurred on March 10, 2013 at the Civic Center – 435 West Main Street, Cartersville, Georgia 30120.

NOW THEREFORE BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council that the City of Cartersville denies the Ante Litem Notice claim submitted as referenced above based on the information currently available to it, and directs the City Attorney's Office to inform Curtis Law Group, P.C. of said denial.

BE IT AND IT IS HEREBY RESOLVED this 15th day of August, 2013.

**/s/Matthew J. Santini
Matthew J. Santini
Mayor**

ATTEST:

**/s/ Connie Keeling
Connie Keeling
City Clerk**

I. Monthly Financial Statement

1. June 2013

Mr. Tom Rhinehart, Finance Director, presented the June 2013 monthly financial statement with comparisons from the previous year of June 2012 by fund, along with supplemental financial information comparing the year to date revenues and expenses for each fund and a report of cash position through June 2013

J. Presentations:

1. Citizen Survey Results

Sam Grove, City Manager presented a portion of the results from the recently completed Citizens Survey pertaining to transportation.

After announcements a motion to adjourn the meeting was made by Council Member Stepp and needing no second. Motion carried unanimously. Vote 6-0

Meeting Adjourned

**/s/ _____
Matthew J. Santini
Mayor**

ATTEST:

**/s/ _____
Connie Keeling
City Clerk**