

City Council Meeting
10 N. Public Square
July 19, 2012
6:00 P.M. – Work Session 7:00 P.M.

I. Opening Meeting

Invocation by Mayor Santini

Pledge of Allegiance led by Council Member Stepp

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 David Archer, City Attorney.

II. Regular Agenda

A. Council Meeting Minutes

1. July 5, 2012

A motion to approve the July 5, 2012 minutes as presented was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

B. First Reading of Ordinances

1. Amendment to Ordinance: Chapter 1. General Provisions. Section 1.6 General Penalty and Continuing Violations

Tom Rhinehart, Finance Director stated that this ordinance gives the Municipal Court the option of Community Service as a substitute for a fine with the rate of hourly work set to that of the federal minimum wage. Mr. Rhinehart recommended approval.

NO ACTION REQUIRED

Ordinance

of the

City of Cartersville, Georgia

Ordinance No.

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 1. GENERAL PROVISIONS. Section 1.6 General Penalty and Continuing Violations is hereby amended by adding a new paragraph (F) as follows:

1.

(F) Community service may be substituted or the fine with the rate of hourly work set to that of the federal minimum wage.

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

BE IT AND IT IS HEREBY ORDAINED

First Reading this the 19th day of July 2012.

ADOPTED this the day of. Second Reading.

/s/ Matthew J. Santini

Matthew J. Santini

Mayor

ATTEST:

/s/ Connie Keeling

Connie Keeling

City Clerk

2. Amendment to Ordinance: Chapter 13. Municipal Court. Section 13-11 Corporation-Service of Process

Tom Rhinehart, Finance Director stated that this ordinance outlines a new municipal court fines and fees structure based on recommendations and resulting from a meeting with Judge Harry White. As a result of the meeting most of the fine amounts have increased. The fines that did not change are state mandated amounts and cannot be changed. In addition to the increase in fines an administrative fee of \$20.00 has been added to help offset the cost of a new court administrative clerk and a technology fee of \$28.00 which will help offset the cost of municipal court software and security updates. Mr. Rhinehart recommended approval.

NO ACTION REQUIRED

Ordinance

of the

City of Cartersville, Georgia

Ordinance No.

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 13. MUNICIPAL COURT. Section 13-11 Corporation-Service of Process; Trial** is hereby amended by deleting Section 13-11 in its entirety and replacing it as follow; by adding a new paragraph (5) to Section 13-14 as follows; by adding new sections 13-21, 13-22, 13-23, and 13-24 as follows; and deleting Section 13-18 in its entirety and replacing it as follows:

1.

Sec. 13-11 – Corporations-Service of process; trial.

Whenever a corporation shall violate any of the penal provisions of this Code or any ordinance of the city, a warrant shall be issued against such corporation for such violation. The clerk of the court shall issue a copy of the warrant to be served by any policeman of the city upon any officer of the corporation to be found in the city, or upon the agent, superintendent or person in charge of the business of the corporation in the city. The policeman serving such warrant shall, at the time of service, notify the person upon whom such service is made, in writing, of the time and place of trial and shall make an entry upon the warrant showing the time of service and upon whom made, and shall return the same to the court and docket the case. The case shall stand for trial in the order and manner as cases against individuals for the violation of ordinances of the city.

If on the trial, the defendant corporation fails to appear, or appearing fails to plead, the judge of the Municipal Court shall case to be entered a plea of not guilty, and trial shall proceed as though the defendant had appeared and pleaded, there shall be rendered judgment against it for the fine imposed by the judge of the Municipal Court, together with all costs of prosecution, upon which judgment the Clerk of Court shall issue an execution against the defendant, which shall be levied and collected by the Chief of Police as tax executions in favor of the City are levied and collected.

2.

Sec. 13-14(5).

(5) At the time of posting bail or bond in any case involving a violation of a criminal or traffic law of this city or state, all surcharges shall be included in the amount of said bail or bond.

3.

Sec. 13-21. - Weapons not allowed in municipal courtroom and adjacent facilities.

Firearms or other weapons, including, without limitation, any knife, razor, razor blade, ice pick or similar device having a sharp point, bat, baton, stun or tazer gun, any device capable of discharging harmful projectiles, pepper spray, and all similar items, shall not be worn or brought into the courtrooms of the municipal court or into the buildings in which they are located, except with the specific authorization of the court or the chief of police.

The following persons or groups are exempted from this prohibition:

- (1) Law enforcement officers employed by the State of Georgia;**
- (2) Local law enforcement officers employed by the City of Cartersville and Bartow County, including sheriff's deputies;**
- (3) District attorneys, assistant district attorneys, and the Attorney General of the State of Georgia;**
- (4) Law enforcement officers of the United States of America, including federal probation officers who are authorized by law or by federal court to wear or carry firearms;**
- (5) Any person appointed by the municipal court judge as a bailiff, provided such person is licensed to carry firearms or otherwise permitted to carry a firearm under state law;**
- (6) Any person otherwise authorized by law to carry firearms or weapons within a superior courtroom of the State of Georgia."**

Any person violating this section shall be punished as provided in Section 1-6 of the City of Cartersville Code of Ordinances.

4.

Sec. 13-22. - Conduct in municipal courtroom.

(a) No person shall, while present within the courtrooms of the municipal court or in the buildings in which they are located, engage in any conduct which may reasonably disturb or interfere with any session of the municipal court or interfere with the business of any municipal court employee, including, without limitation, engaging in actions which disturb or endanger the public peace or decency by any disorderly conduct, such as the use profane or obscene language, being noisy, boisterous, or engaging in any riotous conduct, engaging in, promoting, aiding, or abetting any fight, riot, or disorderly proceeding, acting in a violent or tumultuous manner, using opprobrious or abusive words of another person in such other person's presence which by their very utterance tend to incite to an immediate breach of the peace, or recklessly or knowingly committing any act which may

reasonably be expected to interfere with or disrupt proceedings before municipal court or interfere with its employees.

(b) The municipal court judge shall have the authority to preserve and enforce order in his or her immediate presence and, as near thereto as is necessary, to prevent interruption, disturbance, or hindrance to municipal court proceedings. In addition to the penalties which may be imposed pursuant to paragraph (d) below, any person who fails to comply with an order of the judge of municipal court as to such person's conduct while within the courtrooms of the municipal court or the buildings in which they are located shall be guilty of contempt and shall be subject to the appropriate disciplinary action.

(c) The municipal court judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the peaceful, efficient and successful administration of the business of said court, including the power to delegate authority to law enforcement personnel to achieve such purpose.

(d) Any person violating this section shall be punished as provided in Section 1-6 of the City of Cartersville Code of Ordinances.

5.

Sec. 13-23. – Processing Fees; Fines.

(a) The municipal court chief judge may recommend a schedule of fees to assist the court in its operation and budget. The council must approve any such schedule, but if the council does not act within 30 days of the court's recommendation, the fee schedule will become effective.

(b) The council may set city fines for violations of city ordinances.

6.

Sec. 13-24. – Surcharges and Court Costs.

(a) **State Surcharges.** The Municipal Court shall impose all add-on fees or surcharges required by state, federal, or local law.

(b) **Interpreter Fees.** The Municipal Court shall be authorized to impose fees for providing an accused with the services of an interpreter in accordance with the rules and regulations set forth by the Georgia Supreme Court.

(c) **Administrative/Court Costs.** The Municipal Court shall impose a surcharge not to exceed twenty dollars (\$20.00) to any penalty imposed for a violation of city ordinance or codes or any other matter prosecuted in the Municipal Court to defray the costs of operation associated with the prosecution of such offense, except for O.C.G.A. § 40-8-76 and 40-8-76.1.

However, if the addition of the surcharge results in a total monetary penalty exceeding that which is allowed by law said surcharge shall be reduced to ensure compliance with applicable laws.

(d) **Technology Surcharge.** A technology surcharge in the amount of twenty-eight dollars (\$28.00) per offense for all offenses except O.C.G.A. § 40-8-76 and 40-8-76.1, shall be assessed. Said technology surcharge is to be in addition to all other fine and fees imposed by the Municipal Court. All revenue derived from the technology surcharge shall be utilized by the City to provide technology support for the police department and Municipal Court functions.

(e) **Bail or Bond.** In all cases in which bail or bond is posted, all required surcharges are to be added to same and shall be posted.

(f) All surcharges shall be paid into the City's General Fund or dedicated accounts as may be established from time to time and are to be disbursed as provided for by law.

7.

Sec. 13-18. – Judgment and Sentences.

Upon a judgment or plea of guilty the court shall impose sentence. The court may:

- (a) Impose a fine, with or without a commitment for confinement, compulsory work or both;
- (b) Commit the defendant to confinement, compulsory work or both;
- (c) Suspend the execution of the sentence in whole or in part;
- (d) Defer the execution of the sentence or any portion or portions thereof to one (1) or more fixed dates in the future.
- (e) May revoke, alter, amend or charge a sentence at any time, provided the sentence is not increased; or
- (f) Place on probation.
- (g) The court may punish for violations within its jurisdiction a fine not exceeding \$1,000.00 or imprisonment for six months, or both, except as otherwise provided by this Code or state law.

8.

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

BE IT AND IT IS HEREBY ORDAINED

First Reading this the 19th day of July 2012.

ADOPTED this the day of. Second Reading.

/s/ Matthew J. Santini

Matthew J. Santini

Mayor

ATTEST:

/s/ Connie Keeling

Connie Keeling

City Clerk

C. Contracts/Agreements

1. Subordination Agreement Regarding Jillian Arthur/Wingfoot Park

Randy Mannino, Planning and Development Director stated that this agreement will allow Jillian Arthur to refinance her home and maintain the primary and secondary subordinate agreement with the City of Cartersville. Mr. Mannino recommended approval.

A motion to approve the subordination Agreement was made by Council Member Pruitt and seconded by Council Member Hodge. Motion carried unanimously. Vote 6-0

2. Membership Renewal: ICMA Center for Performance Measurement

Tom Quist, Assistant to the City Manager stated that the annual subscription to ICMA's Center for Performance Measurement (CPM) is nearing its expiration. The city has participated in this program for over five years and continues to benefit from the data, best practices, and networking opportunities provided by CPM. The annual membership cost is \$5,500.00 and Mr. Quist recommended approval.

A motion to approve the ICMA Membership Renewal was made by Council Member Hodge and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

3. Bartow County School System Regarding Adairsville Aquatic Center

Greg Anderson, Parks and Recreation Director stated that the Bartow County School System has agreed to extend the agreement for the use of the Adairsville High School Aquatic Center with allows members of the City's Cobia Swim Team to be year-round swimmers. The affordable monthly rental fee (\$500.00 per month for 9 months) allows the in-door swim

program to operate in the positive which was a condition of continuing the program and Mr. Anderson recommended approval.

A motion to approve the agreement with the Bartow County School System was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

4. Southern Natural Gas Discount

Gary Riggs, Gas Superintendent stated that the Federal Energy Regulatory Commission (FERC) ordered Bear Creek, one of the storage facilities used by the city, to file a rate case. A settlement agreement, lowering their rates has been reached. Mr. Riggs stated that once FERC approves the settlement agreement, Southern Natural will send the city a discount agreement to execute. The discount is expected to begin on September 1, 2012. Mr. Riggs asked that this be approved for the Mayor and City Clerk to sign the agreement contingent upon approval by the City Attorney.

A motion to approve the settlement pursuant to the City Attorney's approval was made by Council Member Hodge and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

D. Bid Award/Purchases

1. McCord Communications Regarding FCC Compliant Radios for Warning Sirens

Scott Carter, Fire Chief stated that due to the FCC Narrow Band requirements effective January 1, 2013 the warning sirens for the city will not be compliant. This purchase is to install and set up the FCC Compliant Radios to operate the warning sirens located within the City. Multiple vendors were sought, however only one vendor had the capability of providing the proper equipment and installation. Chief Carter recommended approval of the bid from McCord Communications in the amount of \$13,300.00.

A motion to approve the bid from McCord Communications was made by Council Member Tonsmeire and seconded by Council Member McDaniel. Motion carried unanimously. Vote 6-0

E. Monthly Financial Statement

1. May 2012

Mr. Tom Rhinehart, Finance Director, presented the May 2012 monthly financial statement with comparisons from the previous year of May 2011, 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 May 2012.

F. Added Item

Mayor Santini stated that there was an item to be added to the agenda. A motion to add an item to the agenda was made by Council Member Tonsmeire and seconded by Council Member Pruitt. Motion Carried Unanimously. Vote 6-0

1. Stormwater Right of Way

David Archer, City Attorney stated that the stormwater improvements in the Wansley Drive area required the purchase of easements. This resolution authorizes the City Attorney to purchase the two easements. Mr. Archer asked that council give the City Attorney the authority to close on these easements.

A motion to approve to give the City Attorney the authority to close on these easements was made by Council Member Tonsmeire and seconded by Council Member Pruitt. Motion Carried Unanimously. Vote 6-0

Resolution No. 12-12

WHEREAS, the City of Cartersville is doing a stormwater improvement project on or adjacent to Wansley Drive;

WHEREAS, it is necessary for the City of Cartersville to acquire easements to several properties to complete said project;

WHEREAS, it is recommended by the Public Works Director and City Engineer that the City of Cartersville acquire said properties to complete the project; and

WHEREAS, the project is in the best interest of the citizens of the City of Cartersville and promotes the public's general health, safety and welfare.

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council of the City of Cartersville, Georgia, that the City Attorney's Office is hereby authorized to acquire said properties on the terms and conditions stated herein.

The following permanent and temporary easements are to be acquired at \$1.77 per square foot:

Parcel 2 being 895.19 square feet & Parcel 3 being 2,772.57 square feet – Ronald and Trisha Murphy (Century Bank – Lienholder) - \$6,500.00.

Parcel 6 being 209.75 square feet and Parcel 7 being 145.33 square feet – SS Partnership, LLC - \$628.49.

The easements are indicated on the drawing attached hereto and incorporated herein as Exhibit "A".

The City shall also pay all closing expenses and costs associated with the above easement purchases.

ADOPTED this the 19th day of July 2012.

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

**ATTEST:
/s/ Connie Keeling
Connie Keeling
City Clerk**

Mayor Santini asked if there was anything else to come before council and William Llop, CPA and candidate for the 11th Congressional Seat came forward.

Mayor Santini stated that a closed session was necessary and that following the closed session the meeting would be adjourned.

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**