

**CITY OF CALHOUN
REGULAR CITY COUNCIL MEETING
DEPOT COMMUNITY ROOM
109 SOUTH KING STREET
JUNE 22, 1998, 7:00 P.M.**

MINUTES

PRESENT: RONALD H. WOODS, MAYOR PRO TEM
 JOHN D. SHELTON, JR., COUNCILMAN
 HENRY HOLLAND, COUNCILMAN

ALSO: WILLIAM P. BAILEY, CITY ATTORNEY
 KELLY CORNWELL, DIRECTOR OF UTILITIES AND PUBLIC WORKS
 CATHY HARRISON, CITY ADMINISTRATOR

1. Mayor Pro Tem Woods called the meeting to order and welcomed everyone in attendance
 - a. Dr. Bert Vaughn gave the invocation.
2. Mayor Pro Tem Woods led the group in the Pledge of Allegiance to the United States Flag.
3. Councilman Holland made a motion to approve the minutes as written of the June 8, 1998 regular City Council Meeting, 2nd by Councilman Shelton, and approved.
4. Mayor Pro Tem's Comments:
 - a. Mayor Pro Tem Woods reminded the Council of public hearings scheduled for July 13, 1998 at 7:00 P.M.
 - 1) Annexation and new zoning request of Thomas H. McBee, executor of the estate of Mr. and Mrs. Claude McBee, for approximately nine acres at the intersection of New Town Road and Jones Road, for R-2 zoning.
 - 2) Zoning variance request of A. T. Williams Oil Company for 100 foot variance for an on-premise sign on Highway 41 North at I-75, east side.
 - 3) A continuation of the Cellular Tower Ordinance.
 - b. Mayor Pro Tem Woods congratulated Ed Lewis, a former City Councilman, on his retirement from the Calhoun Times, following 44 years of service.
 - c. Mayor Pro Tem Woods reminded the public that City Hall and other City business offices would be closed on Friday, July 3, 1998, in observance of Independence Day.
 - d. Mayor Pro Tem Woods stated he, Attorney Bailey, Building Inspector Wiley Moore, and Assistant Building Inspector Don McGinnis, had attended a zoning meeting in Columbus the past Friday and Saturday. He stated the conference discussed the legal and ethical aspects of zoning. It involved group discussions and interaction regarding specific areas and problems associated with zoning. He stated Wiley Moore and Don McGinnis had received certificates of training following the end of the course.
5. Public Hearings and comments:
 - a. Mayor Pro Tem Woods opened a public hearing on the Liquor and Wine Package License request of Speedy's Sprits, for the owner, Rafiq Rahim, with manager Glenn Bryant, for a store located at 769 Highway 53 East. A clear report regarding Mr. Bryant was given. There were no other comments, and the public hearing was closed. Councilman Shelton made a motion to approve the license application with Glenn Bryant as manager, 2nd by Councilman Holland, and approved.
 - b. A third reading of the proposed Cellular Tower Ordinance was given. The public hearing was reopened. Mayor Pro Tem Woods stated the City of Calhoun proposes to obtain comments and input from the general public in order to provide the best possible Cellular Tower Ordinance for the community. At this time, he recognized Mr. Stephen C. Greenberg of Holt Ney Zatcoff and Wasserman, L.L.P. Mr. Greenberg stated he represented SprintCom, a provider of wireless telecommunications service, and he requested an opportunity to discuss several sections of the proposed ordinance, in which he would recommend changes. He stated as a part of his comments, he would read from a letter he had written to the Mayor and Council, dated June 19, 1998. Said letter was submitted and recorded as part of the minutes. (*See Attachment "A"*) Following comments from Mr. Greenberg, there were no other comments and the hearing was continued until July 13, 1998 at 7:00 P.M.
 - 1) Mayor Pro Tem Woods stated the City had requested two providers of services to give a brief review of their company and their ability to provide a review of the current Ordinance and proposed locations for cellular towers within the City Limit area, and to review the possibility of the City erecting public towers for lease. The first individual to make a presentation was Mr. Sam Allen of Terra Communications. Mr. Allen stated he and his associates in the corporation have more than 30 years of service with AT&T, that they have assisted in the construction and maintenance of towers, and that his firm is able to provide the services needed by the City of Calhoun, in an effort to adopt an appropriate Cellular Tower Ordinance.
 - 2) The second speaker was Mr. David Nix of Telecom Technologies, Inc. Mr. Nix stated his company is primarily based in Gainesville, Georgia. He stated they not only erect towers, but are also involved in feasibility studies, and would be very capable of

reviewing the City's current Ordinance and making recommendations, as well as reviewing the area for the best possible sites, and for preparing information regarding public towers for lease, which could be beneficial to the City of Calhoun. He stated his company has done extensive work in this area in Durham, North Carolina for the University. They are associated with an engineering company, formerly Piedmont Olson Hensley, currently known as Geraghty and Miller Company. Mr. Nix stated his firm is currently providing a feasibility study for Gordon County, and that his company would be delighted to prepare a need assessment for the City of Calhoun.

- 3) Following the presentations, Mayor Pro Tem Woods stated the Council would take their comments under advisement and would make a selection on July 13, 1998.
- c. A second reading of a resolution regarding an agreement between Gordon County and the City of Calhoun regarding the proposed annexation dispute process was given. A public hearing was opened. There were no comments, and the hearing was closed. Councilman Holland made a motion to adopt the Resolution and the proposed Annexation Dispute Agreement, and authorize the Mayor Pro Tem to sign. 2nd by Councilman Shelton, and approved.
- d. A second reading of the proposed Golf Advisory Commission Ordinance amendment was given. A public hearing was opened. Councilman Holland stated the Golf Advisory Commission had previously requested changes in the Ordinance which would allow expansion of the membership. However, on additional consideration, he had recommended to the elected officials that the Ordinance be amended further to expand from two additional members to three additional members. He reread the Ordinance amendment, expanding the total Golf Advisory Commission to ten members, and also reviewed the staggered expiration of their first terms. Following discussion, Councilman Holland made a motion to set the public hearing on the proposed changes to the amendment for July 13, 1998 at 7:00 P.M. 2nd by Councilman Shelton, and approved.

6. Old Business:

- a. Harrison reviewed the Special Election for the City of Calhoun scheduled for July 21, 1998 at the Recreation Center on South River Street. Harrison stated the election would be held at the same time as the general primaries. She encouraged everyone to review the proposed ballots, which would be in the newspaper a week or two prior to the election. She asked that they locate the candidates for Mayor and one City Councilman. She stated those officials would not be listed as Republican or Democrat, but would be listed on both ballots. She encouraged everyone to be aware of the election and to attend during the hours from 7:00 A.M to 7:00 P.M., at South River Street at the City precinct.
- b. Councilman Holland reviewed the June meeting of the Golf Advisory Commission. He stated the month of May was the best May ever, since the opening of the course. He stated at the end of 11 months of the fiscal year, revenue projections were 30% above budget, and expenses were 70% of projections. He stated the Golf Maintenance Superintendent had reported on the improvements to cart paths, some of those made primarily for safety measures. He stated there would be continued improvement to cart paths in order to encourage golfers to stay on cart paths in weather in which the course would be damaged.

7. New Business:

- a. Harrison reviewed the City's policy of charge-offs for utilities. She stated those proposed for charge-off for the prior fiscal year total \$28,510.11, and represent 1/9 of 1% of the total billed for water, sewer and electricity for the period, which was \$28,972,256.19. Harrison stated although the accounts would be charged off, the customer service department would maintain the information, and would check each new request for service and collect any old bills, should any of the charge-offs request new service. Following discussion, Councilman Shelton made a motion to charge-off the amount, as requested, under the conditions stated. 2nd by Councilman Holland, and approved.
- b. Harrison reviewed proposed amendments to the 1997-1998 budget, those items being primarily changes in construction and work projects which have been delayed due to easement procurement, weather, legal restraints, or other matters. She detailed the proposed changes for each fund. There were no questions regarding the proposed budget amendment, and following discussion, Councilman Holland made a motion to adopt a resolution approving the amendments as stated. 2nd by Councilman Shelton, and approved.
- c. Mayor Pro Tem Woods stated the amendment to the newly adopted budget to include the down payment for a fire truck, which would be purchased under a lease-purchase, would be included in the January amendments and would be an addition to revenue, due to the conservative planning of revenue for the period.
- d. Harrison reviewed the current meeting of the Loan Advisory Commission, stating the Commission had been requested to consider possible loans to the Downtown Development Authority or to the Industrial Development Authority. Upon seeking permission from the Georgia Department of Community Affairs, the state office which oversees revolving loan funds, it was recommended the Commission amend its policies, and forward a copy to the Department of Community affairs for review and possible approval. Harrison stated the Loan Advisory Commission had reviewed the policies and the current Ordinance and had found that policies had been changed without similar changes being made to the Ordinance. Therefore, they recommended changes to the Ordinance which would be in agreement with the policies, and which would add language to allow possible future loans to the Industrial Development Authority and to the Downtown Development Authority. It would also require additional financial information from loan applicants. Following review of the proposed Ordinance amendment and policies, Councilman Holland made a motion to set a public hearing for July 13, 1998 at 7:00 P.M. 2nd by Councilman Shelton, and approved.

- e. Mayor Pro Tem Woods stated due to the efforts of the elected officials and staff, the City of Calhoun had been able to obtain additional paving for City streets outside the normal LARP program, normally funded by the Georgia DOT. He said those streets are as follows:
- 1) McConnell Road from Spur 53 to West Line Street.
 - 2) Stonehaven Drive from Meadow Lane to the dead end.
 - 3) Crystal River from Riverside Drive to the dead end.
 - 4) Overlook Drive from Riverside Drive to the dead end.
 - 5) Rolling River Drive from Overlook Drive to River Meadow Court.
 - 6) Oothcalooga Street from Spur 53 to the railroad.
 - 7) Court Street from Oothcalooga Street to McConnell Road.
- Following discussion, Councilman Shelton made a motion to approve the City right-of-way agreement and to authorize the Mayor Pro Tem to sign. 2nd by Councilman Holland, and approved.
8. Other written items not on the agenda:
Mayor Pro Tem Woods stated a request had been made from the Coosa Valley Regional Development Center to continue the transportation agreement for the elderly, the agreement being between Coosa Valley Regional Development Center's Area Agency on Aging and the City of Calhoun. Under the agreement, Coosa Valley RDC would provide a van and insurance for the driver and van. The City of Calhoun would provide a driver, gasoline and oil for the vehicle. The agreement would be for the fiscal year 1998-1999. Following discussion, Councilman Shelton made a motion to approve and to authorize Mayor Pro Tem Woods to sign the agreement. 2nd by Councilman Holland, and approved.
9. Director Cornwell stated the City continues on its current work projects, primarily four water expansion projects. He stated the sewer plant renovation and the addition to the plant should be complete by the end of June. He stated the construction on Possum Hollow Road had been completed, testing of the line had been finished, and those individuals who had requested service had taps and are now receiving water. He stated the project did cost more than expected because they encountered three times more rock than anticipated. He stated the Piedmont Road project continues in terms of acquiring right-of-way. Attorney Bailey stated that he had been in touch with Bruce Penn, an appraiser who is providing additional information for possible condemnations on several parcels.
10. Councilman Shelton made a motion to move to Executive Session for personnel matters. 2nd by Councilman Holland, and approved.
11. Councilman Shelton made a motion to move to General Session. 2nd by Councilman Holland, and approved.
12. Councilman Shelton made a motion to adjourn, 2nd by Councilman Holland, and approved.

Approved:



Ronald H. Woods, Mayor Pro Tem

Submitted:



Cathy Harrison, City Administrator

CITY OF CALHOUN
CITY COUNCIL MEETING
EXECUTIVE SESSION
DEPOT COMMUNITY ROOM
109 SOUTH KING STREET
JUNE 22, 1998 - 9:00 P.M.

MINUTES

PRESENT: RONALD H. WOODS, MAYOR PRO TEM
JOHN D. SHELTON, JR., COUNCILMAN
HENRY HOLLAND, COUNCILMAN

ALSO: WILLIAM P. BAILEY, CITY ATTORNEY
KELLY CORNWELL, DIRECTOR UTILITIES AND PUBLIC WORKS
CATHY HARRISON, CITY ADMINISTRATOR

1. The Council reviewed the proposed salary increases for the department heads for the next fiscal year, based on merit and appraisal. One change was recommended regarding those proposed. The Council requested that those changes be effective for the pay period of July 10, that during the next month the department heads review all their employees and the actual increases be put in force effective August 10, for the pay period ending August 14, 1998.
2. Executive Session was closed.

Approved:



Ronald H. Woods, Mayor Pro Tem

Submitted:



Cathy Harrison, City Administrator

**“EXHIBIT A” TO THE JUNE 22, 1998
CITY OF CALHOUN COUNCIL MEETING
FROM A LETTER READ TO THE COUNCIL
BY MR. STEPHEN C. GREENBERG
OF HOLT NEY ZATCOFF & WASSERMAN, LLP,
REGARDING THE PROPOSED CELLULAR TOWER ORDINANCE**

Dear Mayor Pro Tem Woods and City Council Members:

On behalf of our client, SprintCom, Inc. (“SprintCom”), a provider of wireless telecommunications services, please accept this letter commenting upon the Proposed Ordinance. We understand that the Proposed Ordinance is scheduled to be heard by the Calhoun City Council on June 22 and July 13, 1998. SprintCom intends to enter the Calhoun market for wireless telecommunications services, and, therefore, will be directly impacted by the Proposed Ordinance. Consequently, SprintCom appreciates the opportunity to make comments regarding the Proposed Ordinance. Please accept this letter setting forth Sprint’s comments and concerns regarding the Proposed Ordinance.

As a general overview of the regulatory landscape surrounding the wireless industry, Congress passed the Telecommunications Act of 1996 (the “TCA of 1996”) in order to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.” Preamble to the TCA of 1996. The primary mechanism used by the TCA of 1996 to “promote competition and reduce regulation” is a prohibition against local regulations that (i) “unreasonably discriminate among providers of functionally equivalent services” or (ii) “prohibit or have the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. § 332(c)(7)(B). Furthermore, section 253 of the TCA of 1996 provides that “no State or local statute or regulation . . . may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.” There are several sections in the Proposed Ordinance that possibly violate the TCA of 1996, and SprintCom respectfully requests that the City of Calhoun reconsider these sections in light of their anti-competitive effect on the wireless industry.

1. **Section 10-A.2(G).** This Section appears to limit monopole towers to a height of 150 feet. SprintCom simply requests that this height be increased to 250 feet in order to allow for additional carriers, and also for those unique situations in which a higher monopole will be required. Unless the County has a valid objection to this increase in height, SprintCom respectfully requests that this height limitation be increased to 250 feet.
2. **Section 10-A.2(H).** SprintCom requests that the second sentence of this Section be deleted so that there is no disincentive to use towers erected prior to the adoption of the Proposed Ordinance. This sentence will cause wireless carriers seeking to co-locate on towers to avoid using towers covered by this regulation in fear of not being able immediately to replace a tower if destroyed. The City of Calhoun may be able to achieve the result it desires by requiring that existing towers constructed prior to the adoption of the Proposed Ordinance still need to comply with the continuing obligations of the Proposed Ordinance (e.g., documentation reflecting compliance with the regulations of the FAA and the FCC.)
3. **Section 10-A.3(A)(b).** This Section requires that “[a]t least 6,000 square feet of ground area [be] available at the tower base, so as to accommodate up to three (3) maintenance/operation structures.” This minimum square footage is excessive and does not reflect the actual ground space needed to accommodate three wireless carriers. SprintCom often accommodates three wireless carriers with a total of 2,500 square feet of ground space. (Please see the site plans attached hereto that SprintCom has prepared for another location and that depict the actual lease area size of 2,500 square feet.) The City of Calhoun may wish to distinguish between the ground space required for monopole towers (approximately 2,500 square feet) and the ground space required for lattice-type towers (which SprintCom does not routinely construct, and for which, therefore, SprintCom does not strongly advocate a minimum square footage less than that provided by the Proposed Ordinance, though 6,000 square feet also seems excessive for lattice towers.)

SprintCom suggest the following language:

With respect to Monopole Towers, the proposed tower facility shall contain at least 2,500 square feet of ground area available at the tower base, so as to accommodate up to three (3) maintenance/operation structures. For Lattice Towers, the proposed tower facility shall contain at least 6,000 square feet of ground area available at the tower base, so as to accommodate up to three (3) maintenance/operation structures.

SprintCom also questions the “across the board” requirement that all towers accommodate at least three wireless carriers. The Proposed Ordinance should specify that towers at different heights be designed and constructed to accommodate different numbers of wireless carriers. For example, the Proposed Ordinance could require that towers between 135 and 150 feet accommodate two wireless carriers, and that towers between 150 and 180 feet accommodate at least three wireless carriers. This would allow carriers needing a lower tower (e.g. 125 feet) to construct a tower at this height, as opposed to constructing a higher tower because of the requirement that it accommodate three wireless carriers, which a 125 foot tower could not accommodate.

4. **Section 10-A.4(B).** This Section requires that evidence of compliance with the standards and regulations of the FAA, FCC and other agencies be submitted to the City every 12 months. However, the agencies that have jurisdiction over SprintCom’s operations do not generally issue written evidence affirmatively stating that SprintCom is in compliance with applicable regulations. A possible alternative would be to have SprintCom provide annual letters stating affirmatively that it is in compliance with all applicable regulations.

5. **Section 10-A.4(F).** This Section requires that proposed sites which lack frontage on a public or private road, provide an access easement at least 50 feet wide. The required width of the access easement is excessive. A 20-foot access easement would be adequate and customary.

6. **Section 10-A.4(J).** This Section requires that “[a]ll towers and antennae shall be set back at least a distance equal to the height of the tower plus fifteen (15) feet or 200 feet, which ever is greater, from any dwelling, zoning district line, or public property, in addition to and cumulative to all other set backs required by the zoning district in which is [sic] located.” SprintCom respectfully requests that this requirement be changed to require setbacks only from adjacent dwellings and not from the adjacent residential zoning district lines. Moreover, the minimum setback of 200 feet is simply unnecessary, especially in light of the wireless industry’s frequent usage of towers below this height. This Section creates an incentive to construct higher towers. Furthermore, the setbacks mandated by this Section do not correspond to the height of the tower. Moreover, the additional 15-foot setback tacked onto the height of the tower is unnecessary.

Finally, the provision that the required setback be in addition to and cumulative to all other setbacks otherwise required in the zoning district is unnecessary and excessively burdensome. SprintCom’s experience has always been that setbacks specifically governing telecommunication towers are controlling and take the place of otherwise applicable setbacks. The accumulation of the district setbacks with the tower setbacks is confusing, unnecessary and unduly burdensome, and SprintCom respectfully requests that the City of Calhoun make the setbacks required of towers in the Proposed Ordinance the only applicable setbacks.

7. **Section 10-A.5.** This Section needs to be clarified in that the Proposed Ordinance requires carriers to seek out space on an “existing tower.” SprintCom is unclear whether this wording intentionally attempts to force SprintCom to consider pre-existing towers (which are, by definition, conforming to the requirements of the “Proposed Ordinance”) and non-conforming, existing towers (which were erected prior to adoption of the Proposed Ordinance and will be precluded from being replaced if destroyed greater than 50 percent.) SprintCom and other carriers will more than likely not even attempt to co-locate on existing towers that the City deems “non-conforming” because of the risk that if destroyed, the carrier will be without service in that region and be forced immediately to seek a permit and approval for the construction of a new tower to provide service for that region. If the City elects to keep “pre-existing towers” non-conforming, then a distinction should be made between a wireless carrier’s efforts to co-locate on pre-existing, and therefore conforming, towers and towers which are non-conforming, and therefore a potential risk to the carrier. SprintCom respectfully requests that the language in

Section 10-A.5 be changed to reflect that the carrier be required to attempt to co-locate on "pre-existing towers" only.

Sprint Com hereby submits these comments to the City of Calhoun with respect to the Proposed Ordinance, and SprintCom respectfully requests that the City of Calhoun consider these comments and make the appropriate revisions.

By raising the points set forth in this letter, SprintCom is not waiving, relinquishing or abandoning any other constitutional challenges, rights or privileges, and SprintCom further reserves the right to raise such other issues, points or questions that may arise. Thank you for your time and consideration.

Sincerely yours,

HOLT NEY ZATCOFF & WASSERMAN, LLP

Stephen C. Greenberg

**CITY OF CALHOUN
CALHOUN, GEORGIA**

RESOLUTION

WHEREAS, the City of Calhoun is mandated by State Regulations to maintain a balanced budget; and

WHEREAS, several budgeted work projects have been delayed due to easement procurements, weather, legal restraints and other matters; and

WHEREAS, the projects have been transferred to the 1998-1999 budget;

NOW THEREFORE BE IT RESOLVED, the following amendments are hereby made to the 1997-1998 budget:

General Fund Revenues:

# 001-10000-3342	D.O.T. Funds	<\$280,000.00>
# 001-10000-3341	State Grants	<\$50,000.00>
# 001-10000-3181	Real Estate Transfer Tax	\$31,000.00
# 001-10000-3182	Franchise Tax	\$11,250.00
# 001-10000-3183	Hotel-Motel Tax	<\$30,000.00>
# 001-10000-3511	Police Fines	\$25,000.00
TOTAL		<\$292,750.00>

General Fund Expenses:

# 001-43100-750	Asso. Paving Expense – Street	\$45,000.00
# 001-43100-7501	Street Paving – Street	<\$229,250.00>
# 001-43100-751	Storm Water Drainage – Street	\$60,000.00
# 001-44143-100	Salaries – Animal Control	\$1,500.00
# 001-45200-730	Parks Improvements	<\$170,000.00>
TOTAL		<\$292,750.00>

WPS Revenues:

# 002-10000-340	Electric Sales	<\$1,000,000.00>
# 002-10000-3401	Fuel Adjustment	<\$100,000.00>
# 002-10000-371	Sewer Taps	\$20,000.00
# 002-10000-381	Water System Additions	\$69,000.00
# 002-10000-382	Sewer System Additions	\$55,000.00
TOTAL		<\$956,000.00>

WPS Expenses:

# 002-70000-720	Buildings – W P	<\$300,000.00>
# 002-80000-821	GEFA Loans Principal – SP	<\$100,000.00>
# 002-80000-8211	GEFA Loans Interest – SP	<\$100,000.00>
# 002-90000-461	Electric Purchases	<\$456,000.00>
TOTAL		<\$956,000.00>

SPECIAL PROJECTS:

Water Plant Improvements:

Revenue:

GEFA Loan # 92-043-WS	Water Plant Improvements	<\$317,334.00>
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Expenses:

Contractors	Water Plant Improvements	<\$317,334.00>
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Special Well Project:

Revenue:

ARC Grant		<\$300,000.00>
GEFA Loan 95-L34-WS		<\$651,706.00>
TOTAL:		<\$951,706.00>

Expenses:

Contractors for well and transmission line projects	M & M and Jones Environmental	<\$951,706.00>
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Sludge Dryer Project:

Revenue:

GEFA 93-07-WS		<\$455,280.00>
Local Share		<\$12,067.00>
TOTAL:		<\$467,347.00>

Expenses:

Universal Drying Contract		<\$467,347.00>
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CDBG Project:

Revenue:

CDBG Grant		<\$500,000.00>
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WPS – Local Cost	<\$30,869.00>
General – Local Cost	<\$34,158.00>
TOTAL	<\$565,027.00>

Expenses:

Street Improvements	<\$149,000.00>
Water Improvements	<\$116,000.00>
Sewer Improvements	<\$260,000.00>
Engineering	<\$40,027.00>
TOTAL:	<\$565,027.00>

ADOPTED this the 22nd day of June 1998.

City of Calhoun, Georgia



Ronald H. Woods, Mayor Pro Tem

Attest:



Cathy Harrison,
City Administrator

City of Calhoun, Georgia

RESOLUTION

WHEREAS, cities and counties within the State of Georgia are required to have adopted a Service Delivery Strategy Dispute Resolution Process prior to July 1, 1998; and

WHEREAS, the University of Georgia, Carl Vinson Institute of Government; Georgia Municipal Association; Association of County Commissioners of Georgia; and the Department of Community Affairs have submitted a draft which includes the minimum requirements; and

WHEREAS, officials of the Cities of Calhoun, Fairmount, Plainville, Ranger, Resaca, and Gordon County have met and amended the draft to meet the local needs; and

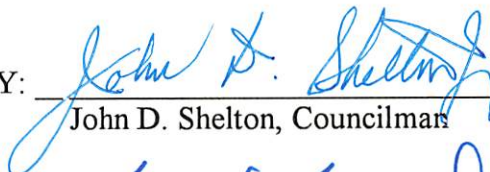
WHEREAS, the City Attorney for Calhoun has reviewed and added a few comments to clarify several points;

NOW THEREFORE BE IT RESOLVED, the City Council of the City of Calhoun has reviewed the proposed draft of the Service Delivery Strategy Dispute Resolution Process, and does hereby adopt the agreement between the City of Calhoun and Gordon County. The Mayor Pro Tem is hereby authorized to sign said agreement on behalf of the City of Calhoun.

ADOPTED this the 22nd day of June, 1998.


City of Calhoun, Georgia

BY: 
Ronald H. Woods, Mayor Pro Tem

BY: 
John D. Shelton, Councilman

BY: 
Henry Holland, Councilman

Attest:


Cathy Harrison, City Administrator/Clerk

SERVICE DELIVERY STRATEGY DISPUTE RESOLUTION PROCESS

The City of Calhoun (hereinafter referred to as the "City") and Gordon County, Georgia (hereinafter referred to as the "County") hereby agree to implement the following process for resolving land use disputes over annexation, effective July 1, 1998.

1.

On the first business day immediately following the receipt of an application for annexation from a property owner(s) or prior to the City's initiating any formal annexation activities, the City will notify the county of a proposed annexation and provide information on location of property, size of area, and proposed land use or zoning classification(s) [if applicable] of the property upon annexation.

Within fifteen (15) working days following receipt of the above information, the county will forward to the City a statement either:

- a. Indicating that the County has no objection to the proposed land use for the property; or
- b. Describing its *bona fide* objection(s) to the City's proposed land use classification, providing supporting information, and listing any possible stipulations or conditions that would alleviate the County's objections.

2.

If the County has no objection to the City's proposed land use or zoning classification, the City is free to proceed with the annexation. If the County fails to respond to the City's notice in writing within the deadline, the City is free to proceed with the annexation and the County loses its right to invoke the dispute resolution process, stop the annexation or object to land use changes after the annexation.

3.

If the County notifies the City that it has a *bona fide* land use classification objection(s), the City will respond to the County in writing within fifteen (15) working days of receiving the County's objection by one of the following:

- a. Agreeing to implement the County's stipulations and conditions and thereby resolving the County's objections(s);
- b. Agreeing with the County and stopping action on the proposed annexation;
- c. Disagreeing that the County's land use classification objections are *bona fide* and notifying the County that the City will seek a declaratory judgment in court; or
- d. Initiating a thirty (30) day (maximum) mediation process to discuss possible compromises.

4.

If the City initiates mediation, the City and County will agree on a mediator and mediation schedule, and determine participants in the mediation. The City and County agree to share equally any costs associated with the mediation.

5.

If no resolution of the County's *bona fide* land use classification objection(s) results from the mediation, the City will not proceed with the proposed annexation except as directed or ordered by a court of competent jurisdiction pursuant to either a declaratory judgment or mandamus action brought by the City or property owner(s) not later than thirty (30) days from the termination date of the mediation.

6.

If the City and the County reach an agreement as described in Paragraph 3(a) above or as a result of the mediation, the parties will draft an annexation agreement for execution by the City, the County, and the property owner(s). After execution by all parties, said agreement shall be filed by the City in the Office of the Clerk of Superior Court of Gordon County and shall be made a part of the deed records thereof.

Regardless of future changes in land use or zoning classification, any site-specific mitigation or enhancement measures or site-design stipulations included in the agreement will be binding on all parties for the duration of the annexation agreement. The agreement shall become final when signed by the City, the County and the property owner(s).

7.

This annexation dispute resolution agreement shall remain in force and effect until amended by agreement of each party or unless otherwise terminated by operation of law.

SO AGREED this the 22 day of June, 1998.

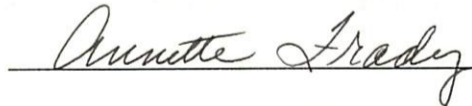
Attest:






Mayor, City of Calhoun

Attest:





Chairman,
Gordon County Board of Commissioners

**CITY OF CALHOUN
PRE-CONSTRUCTION CONFERENCE
UTILITIES AND PUBLIC WORKS DEPARTMENT
CONFERENCE ROOM
700 WEST LINE STREET
JUNE 11, 1998 - 9:30 A.M.**

CDBG MILL VILLAGE PROJECT

MINUTES

PRESENT: DEWEY CARVER, CARVER AND CARVER PLUMBING, INC.
EASTACE SLINKEN, SPRIGGS PAVING COMPANY, INC.
JOHN SWEITZER, SWEITZER ENGINEERING
MICHAEL FOWLER, SWEITZER ENGINEERING
BRENT ALLEN, DEPARTMENT OF COMMUNITY AFFAIRS

ALSO: JERRY CRAWFORD, ASST. SUPER. OF WATER AND SEWER CONST.
KEVIN McENTIRE, STREET SUPERINTENDENT
MARK WILLIAMSON, WATER AND SEWER TECHNICAL ENGINEER
KELLY CORNWELL, DIRECTOR UTILITIES AND PUBLIC WORKS;
ROSS WILBURN, CITY ENGINEER;
CATHY HARRISON, CITY ADMINISTRATOR

1. John Sweitzer introduced everyone and obtained telephone numbers, pager numbers, and mobile numbers, and distributed a list to the group.
2. John Sweitzer reviewed the responsibilities of the engineer, those being:
 - a. As the owner's agent, issues all instructions of owner.
 - b. Not a construction scheduler or expeditor. The contractor is solely responsible for the schedule.
 - c. Observes work for compliance with drawings and specifications only.
 - d. Determines the amount earned for payment and acts as initial judge of claims and disputes.
 - e. Field representative has limited duties, as listed in Specifications, Section M of the contract.
3. Engineer Sweitzer reviewed the responsibilities of the owner:
 - a. Ultimate decision maker on disputes of contract sum and contract time.
 - b. Does not instruct contractor in day-to-day work, except in emergencies.
 - c. Provides land disturbance permit. Said permit should be available within the next five to seven days.
 - d. Provides land easements:
 - (1) One easement for an 8-inch sewer.
 - (2) Easements for each individual lot for on-site work and sewer laterals, these easements being temporary in nature. Said easements have not been procured at this time, but should be available very shortly.
 - (3) Will make emergency repairs, if necessary, and back charge contractor for cost.
 - (4) City will administer DCA Grant and conduct labor interviews, etc.
4. Responsibilities of Funding and Regulatory Agencies:
 - a. Mr. Brent Allen stated the agency involved would be the Department of Community Affairs, which has a grant to the City for the project. He stated he would be the field representative for DCA, and would work with the City Administrator in the administration of the grant.
 - b. The agency does not issue instructions regarding conformity to plans and specifications. The Agency occasionally does inspection of funding agencies, reviews their safety, pollution control, traffic erosion control, and will review signage located on the job site. He stated DCA has specific EEO and labor requirements, in that weekly payrolls must be submitted for the contractor and any sub-contractors on a weekly basis with all information, including the job classification as per the wage determination listed in the contract. The payroll information must be of the nature in which the City can determine any overtime for anyone who works over 40 hours per week, and the rate of pay. There must be authorizations for any deductions which are made from payroll checks of employees. Also, each payroll must be signed as to its representation of true and accurate facts.

5. Responsibilities of the Contractor: John Sweitzer stated the contractor's responsibilities are fully spelled out in the contract document and are not modified by this Pre-construction Conference:
 - a. Sweitzer asked if the contractors had any questions about the job site and conditions. The only question was related to rerouting of a sewer line for which a tree was located in the path.
 - b. Sweitzer stated that all insurance documents had been forwarded to the City prior to the commencement of any work.
 - c. The contractor is fully responsible for construction means and methods.
 - d. The contractor is fully responsible for safety of workers, the job site, and the public.
 - e. The contractor must obtain approval from the engineer before making any changes.
 - f. A superintendent must be on the job site with authority to make decisions at all times when work is under way.
 - g. The superintendent must supervise sub-contractors and coordinate all work with utility companies and others.
 - h. The contractor must obtain all permits and approvals not specifically listed as owner furnished.
 - i. The superintendent must have telephone on site at all times that work is under way.
6. The contractor requested seven copies of plans.
7. It was determined that the pay estimates would cut off on the 25th of the month, with the contractor and engineering inspector to review and approve all quantities. The pay request would then be forwarded to Sweitzer Engineering for approval, then to the City Director of Utilities for approval, and forwarded to Harrison for filing with DCA for payment. Harrison stated the initial pay request would take 30 days or more to be paid from the date of receipt by the engineering firm. Hopefully, that time can be reduced to 15 to 20 days on subsequent pay requests. Sweitzer indicated that full payment would be made for completed items only.
8. The contractor stated he has a list of materials which he will be submitting to the engineers shortly, as well as a schedule for the work.
9. Sweitzer stated the proposed date for starting the work would be June 15, 1998, with completion in November or December of 1998. He stated the contract would run for 180 days, with liquidation damages as listed in the contract.
10. The contractor stated that his normal work hours were on the job site from 8:00 A.M. to approximately 6:00 P.M., as a normal rule of thumb. However, it would be later than 6:00 P.M. on occasions when a specific job was started and could not be left incomplete. He stated, as the project proceeds, there may be weekend work, but the City and engineer will be notified prior to the weekends.
11. The Street Superintendent stated it would be necessary for provisions to be made on the narrow streets, for the trash truck, which runs on Thursdays, and for mail delivery daily. It was suggested the trash truck be scheduled to run early in the mornings, prior to 8:00 A.M. on Thursday, in order to interfere less with the project.
12. The Pre-construction Conference was closed at approximately 11:00 A.M.

Submitted:



Cathy Harrison, City Administrator