

**MEETING OF THE MAYOR AND COUNCIL FOR THE CITY OF RICHMOND HILL
February 5, 2013
7:30 P.M.**

Richmond Hill City Hall Council Chambers

Present from City Council: Harold Fowler, *Mayor*; Van Hunter, *Mayor Pro-Tem*;
Councilmembers: Russ Carpenter, Jan Bass, John Fesperman, Jr.

Staff Present: Ursula Lee, *City Clerk*; Randy Dykes, *Planning & Zoning*; Billy Reynolds, *Police Chief*; Vernon Rushing, *Fire Chief*; Harvey Lashley, *Park & Tree Director*; Rick Lauver, *CHM2Hill*; Chris Stovall, *Engineer*; Bob Whitmarsh, *Finance Director*

Visitors: Crissie Elerick, Ralph Forbes, Jennifer McCorkle, Jamie Parker, Darryl Petermann, Earra Merritt, Fred & Jen Shimalla, Michael Kramer, Michelle Englehart, Mark Casper, Ann Crockett, David Aspinwall, Billy Albritton

Mayor Harold Fowler called the meeting to order at 7:30 P.M. and Councilmember Fespermann gave the invocation. The pledge of allegiance was given.

Approval of Minutes:

The minutes of the regular scheduled Council meeting held on January 15, 2013 were approved in a motion by Councilmember Carpenter, and seconded by Councilmember Fesperman. Motion carried in the affirmative by Councilmembers Bass and Hunter.

DEPARTMENTAL REPORTS:

Administration and Personnel: Ursula Lee

Nothing to report.

Public Safety:

Police Department: Chief Billy Reynolds

1. 2012 Annual Report. Chief Reynolds was present to answer any questions.
2. Approve/Disapprove addition of Davo Towing to Call Out List. City Manager Lovell told Council that the City Ordinance calls for a company to have a storage yard and requires in the contract to have a building. Mr. Davo currently has a building under construction and there is a copy of the contract as well as pictures in your packet.

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We only add people once a year so we wanted to go ahead and include him to the list.

Councilmember Fesperman asked how many are on the list. Mr. Lovell replied there are four on the list.

Councilmember Bass made a motion to approve the addition of Davo Towing to Call Out List contingent on issuance of Certificate of Occupancy on new building. The motion was seconded by Councilmember Carpenter. Motion carried in the affirmative by Councilmembers Hunter and Fesperman.

Fire Department: Chief Vernon Rushing

Nothing to report

Public Works: Rick Lauver

Nothing to report

Parks, Recreation and Culture: Harvey Lashley

Nothing to report.

Planning, Zoning and Code Enforcement: Randy Dykes

1. Approval/Disapproval of alcoholic beverage license request for off-premises consumption of beer and wine only at the Parker's store #26 and #2. The new store manager is Amy Lane. Mr. Dykes told Council background check was completed and everything was in order.

Councilmember Fesperman made a motion to approve the alcoholic beverage license request for off-premises consumption of beer and wine only at the Parker's store #26 and #2 in the name of new store manager Amy Lane. The motion was seconded by Councilmember Bass and voted in affirmative by Councilmember Carpenter and Councilmember Hunter.

2. Approval/Disapproval of proposals for maintenance of HVAC units in the Fire Dept., Police Dept., P&Z, and City Hall buildings. Mr. Dykes explained they had sent out bids for proposals for maintenance of HVAC units for the city departments and were looking to award the maintenance contract tonight to one of the contractors. The bids were in Council's packets.

Councilmember Carpenter made a motion to award the contract for maintenance of HVAC units to Canady's Precision Air of Georgia to provide service to the Fire Dept., Police Dept., P&Z, and City Hall buildings. The motion was seconded by Councilmember Fesperman, and carried in affirmative by Councilmember Hunter and Councilmember Bass.

3. Approval/Disapproval of the request by Eara Merritt for the site plan and building elevations for his proposed new dance studio located at 11258 Ford Ave. The property is zoned C-1, neighborhood commercial. Mr. Dykes told Council this would be a new studio with a total of 7,750 sq. ft. with 4,000 sq. ft. being the dance studio and the other 3,750 sq. ft. to be offered as retail/office space. The building would be brick on all sides with stucco and a metal roof. The building would face the Parkers Gas Station. It does meet the parking requirements. There is a requirement of a 12 ft. buffer but the applicant is proposing a 25 ft. buffer. They have asked that the traffic study be waived. Their engineer, Mr. David Aspinwall is present to answer any questions as well as Mr. Merritt. The Planning Commission did recommend approval with the caveat of the traffic study being waived. Mr. Dykes noted a copy of the site and building elevation plans were included in Council's packets.

Councilmember Fesperman asked if there would be any trees

included in the buffer. Mr. Dykes replied that it did include some trees and remember he is doing the 25 ft. buffer.

Councilmember Fesperman asked about the entrance and exit of the property. Mr. Dykes replied it exits and enters onto an existing frontage road that is along the front of this property. There was a brief discussion about traffic flow, congestion, and the positioning of building on lot.

Councilmember Carpenter commented that there did need to be a dense buffer.

Councilmember Hunter made a motion to approve, with the comments noted by Councilmember Carpenter, the request by Eara Merritt for the site plan and building elevations for his proposed new dance studio located at 11258 Ford Ave. The motion was seconded by Councilmember Bass and motion carried in the affirmative by Councilmembers Carpenter and Fesperman.

4. Approval/Disapproval of the request by Eara Merritt for the tree plan for his proposed new dance studio located at 11258 Ford Ave. The property is zoned C-1, neighborhood commercial. Mr. Dykes noted this item dealt with the previous item. The required 40% canopy coverage would be 12,880 sq. ft. The applicant proposes to plant 13,500 sq. ft. of canopy coverage trees which exceeds the required coverage and does not include existing canopy coverage that he intends to save along the rear for the buffer. The Planning Commission did recommend approval.

Mayor Fowler asked what type of trees would be along the frontage. Mr. Dykes

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replied they would be Live Oaks and possibly some Magnolia trees, along with some shrubs.

Councilmember Carpenter made a motion to approve the request by Eara Merritt for the tree plan for his proposed new dance studio located at 11258 Ford Ave. The motion was seconded by Councilmember Fesperman. Motion carried in the affirmative by Councilmembers Hunter and Bass.

Finance Director: Bob Whitmarsh

Nothing to report

UNFINISHED BUSINESS:

City Manager's Topics: Chris Lovell

- a. Approval/Disapproval of a Memorandum of Understanding with Bryan County on the Belfast Interchange that, contingent upon the property being annexed into the city and Rayonier doing the engineering and the archeological study, the city will split the \$400,000 maximum cost for mitigation credits evenly with Bryan County.

Mayor read the resolution as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF RICHMOND HILL, GEORGIA, EXPRESSING CONTINUED
SUPPORT FOR AN INTERCHANGE AT INTERSTATE 95 AND BELFAST ROAD
PROVIDING FOR THE TERMS OF CERTAIN AGREEMENTS,
AND PROVIDING FURTHER FOR THE CREATION OF
AGREEMENTS BETWEEN THIS CITY, BRYAN COUNTY AND
TERRAPOINTE AND REQUIRING THE CITY MANAGER AND
CITY ATTORNEY TO PROCEED IN SUCH MATTERS**

WHEREAS, interest continues in the development of an interchange at I-95 and Belfast Road in conjunction with the anticipated annexation of nearby tracts and development of the same by TerraPointe, and

WHEREAS, Bryan County has expressed an interest in pursuing the same goals, and

WHEREAS, it is expected that if certain costs can be absorbed, the Georgia DOT will consider permitting the interchange and building the same upon a joint request from the City and County that the project be placed on the DOT Improvement Program List, and

WHEREAS, TerraPointe has indicated that they are willing to absorb certain costs.

NOW THEREFORE, be it resolved that the City of Richmond Hill is committed to the pursuit of this project provided that suitable contracts and Intergovernmental Agreements are entered into by the City, Bryan County and TerraPointe covering the following major issues:

1. The Wetland Mitigation Costs of the project, up to \$400,000.00, shall be paid by the City of Richmond Hill and Bryan County, with each paying \$200,000.00 in 2015.
2. TerraPointe shall donate all necessary right-of-way at no cost to the City, the County or

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the State.

3. TerraPointe shall, at its own expense, provide all Archeological and Environmental Engineering and all permitting, delivering a “shovel ready” project.

4. TerraPointe shall apply to annex the industrial and commercial portion of the Belfast Siding Tract and Bryan County shall approve the annexation prior to the City’s payment of any portion of its mitigation costs under Item 1, above.

Provided further that the City Manager and City Attorney proceed immediately to prepare and secure the necessary Agreements and present the same to this Council for any further instructions and approval.

BE IT SO RESOLVED, in an open and regular Council Meeting this 5th day of February, 2013.

Mayor Fowler noted that Bryan County did approve this at their meeting last night but the big thing is item #4; until it is officially annexed into the city we will not pay anything.

Councilmember Fesperman made a motion to approve the RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND HILL, GEORGIA, EXPRESSING CONTINUED SUPPORT FOR AN INTERCHANGE AT INTERSTATE 95 AND BELFAST ROAD. The motion was seconded by Councilmember Bass, motion carried in the affirmative by Councilmembers Hunter and Carpenter.

b. Approve/Disapprove instructing City Attorney to institute a moratorium on all signs within the city limits until further notice.

City Attorney Ray Smith told Council that moratoriums are never favored under the law. The courts look at what you’re holding up, why you’re holding it up and more importantly the timeline. Mr. Smith noted the only one he has ever seen holdup in the courts was for thirty days.

Councilmember Hunter stated that he had not seen anything on this moratorium and before he takes any action on it tonight, he would like to know why we are having a moratorium on the issue.

Mr. Smith stated that he was contacted one to two days ago and asked for this to be done, he did not know why.

Councilmember Hunter stated until he knew the why of it he would not be casting a vote tonight.

City Manager Lovell stated that the city has had several sign requests and the city is in the process of reviewing the Sign Ordinance. Rather than approve signage that could be confusing, we thought we would clear it up.

Mr. Smith stated that in the midst of the Georgia Outdoor mud bath, the question came up whether or not our Sign Ordinance was sufficiently abstract. What that meant was that all sign ordinances in Georgia for many, many years were for a good purpose and to distinguish between a commercial and non-commercial message.

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Mr. Smith stated that it makes common sense that a citizen should be able to put up a sign that would say come visit our church as an example without going thru a lot of billboard regulations. The United States Supreme Court disagrees and stated that is going against Free Speech so therefore on a sign one should be able to say whatever they would like and that sign should go under all regulations. Because of those changes Mr. Smith stated he called GMA and they got us in touch with someone in Atlanta to prepare a Sign Ordinance. When receiving that back, we then sent it to GMA for review. Mr. Smith noted that he still did not understand the Sign Ordinance and if there ever was anything that needs clarification it is this ordinance.

Councilmember Carpenter stated that is why we needed the thirty day moratorium. Mr. Smith replied the thirty day is the one that he has seen go thru. Councilmember Fesperman asked if we could get this ordinance done in thirty days. Mr. Smith replied he was looking at sixty days but please be aware that it would have to move and could not be drawn out.

Councilmember Bass replied that she had problems with her own campaign signs and no one at city hall could give her a clear cut answer on the regulations.

Councilmember Hunter stated that during her campaign it did highlight the issues with the political signage. However, the issue tonight has been on for well over a year and now all of a sudden we're going to do something by issuing a moratorium and he is just hearing about it. Councilmember Hunter stated he would vote no for that reason tonight.

Mr. Smith stated for clarification for those that may not know those signs were protected by State law and he has been questioned several times why you don't change the ordinance. The answer is when you change the ordinance the taxpayers have to pay to make the change, pay the ZPA Compliance, pay for advertising, pay for Public Hearings. Mr. Smith stated that when you fix, you need to do just one fix and fix it all.

Mr. Lovell noted that in answer to the timing we have been hit with a few sign issues and so to help we decided to put this in tonight to help with those issues. The fact that it was added at a later date was not just arbitrary.

Councilmember Carpenter commented that he thought the moratorium would help facilitate in getting a coherent sign ordinance. Mr. Smith stated the moratorium would stop the bluff until such times as you could get it where you want it. Mr. Smith noted sign ordinances are extremely peculiar. Persons with a great deal of money that are accustomed to winning lawsuits are in the outdoor advertising business and when you start changing smaller things in sign ordinances and making these changes for the lack they often times see and get a lot of applications. The moratorium would basically block those applications until you could get the sign ordinance in place that you would want.

Mr. Dykes asked if people who have applications in now would be affected if the moratorium is voted in. Mr. Smith replied the answer would be probably but he would get the answer. Councilmember Bass asked if we have a brand new business come in with a thirty day permit that states they would like to have a grand opening, they would not be able to advertise, even though they would be bringing money into this

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community; because we could have a moratorium for thirty to sixty days. Councilmember Bass stated that we were at this point last January and now here it is February 2013 and nothing has been done.

Councilmember Carpenter stated this was a step in getting this done. Councilmember Bass replied absolutely but she doesn't think you should put a moratorium and say these business owners should sacrifice advertising because we would want to put a \$1,000.00 ad in the newspaper that nobody reads; no offense to the newspapers. We need to worry about the new businesses that might come in like Appleby's or Outback. You're going to tell this major organization you can't put anything out to advertise because we are still under this moratorium.

Councilmember Carpenter stated he didn't think either one of those businesses' would be applying in the next thirty days although he wished they would.

Mr. Smith noted that if you felt that would be an issue what you could probably do is put the moratorium on permanent sign permits and allow temporary signs.

Councilmember Fesperman stated that is what he would do. Mr. Lovell commented he thought that would be a nightmare. Mr. Smith replied that would be one way of addressing the concern.

Councilmember Carpenter made a motion to approve and institute a sign moratorium on all signs inside the city limits except for temporary signs. The motion was seconded by Councilmember Fesperman.

Ms. Michelle Englehart and Mr. Mike Kramer spoke on behalf of their new business concerning quill flags at Espresso Hill, Inc. which falls under the new signage ordinance. Ms. Englehart stated they have had some issues with their signage, the quill flag has been ordered taken down because it is not in compliance with the ordinance. The ordinance is vague and they would like some clarification and guidelines. Ms. Englehart stated she would like the signs to be attractive but she would also like for their businesses to thrive. Ms. Englehart noted they are a new business, only a month old, and they wanted their business to thrive. Ms. Englehart stated that the ordinance has a grey area when it comes to private property and signs. Ms. Englehart noted they had received a letter of authorization from their landlord that they could put up a flag. Ms. Englehart stated they are requesting a reasonable, fair, and consistent ordinance. Ms. Englehart stated that when you come into Richmond Hill you would notice some hand painted signs on plywood. What is that telling potential residents who are thinking about moving here? Mayor Fowler stated that is exactly why they are placing a moratorium tonight; to make sure that doesn't continue to happen and to make the ordinance clear and precise.

Ms. Englehart asked if they would be under this moratorium. Mayor Fowler stated he thought they were asking for a temporary permit until the ordinance is clear; and no, you

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would not be under it because you would be asking for a temporary permit. Mr. Kramer stated that under the ordinance they are not required to get a temporary permit because it is a flag, not a sign.

Mr. Dykes stated that is why it went to the attorney because there was a disagreement about it being a sign or banner.

Mr. Smith asked that P & Z take no enforcement action until the opinion comes out. Mr. Smith stated he would have an answer within ten days.

Councilmember Hunter stated that the ordinance does need some overhaul work and they are taking steps to correct it. Do we have issues with political signage? Yes, absolutely we do. Councilmember Hunter stated that where he has the objection is that this amended agenda that he got today was not enough time to make a decision on something that just came up today. The timing is inappropriate.

Mayor Fowler stated that he disagreed with Councilmember Hunter. Mayor Fowler asked Councilmember Carpenter if he included a time limit in the motion. Councilmember Carpenter stated he did not.

Councilmember Carpenter amended his motion to include a sixty day time frame for the moratorium. City Attorney Ray Smith asked that it be modified to say the sooner or passage of new ordinance or sixty days which ever shall first occur. Mr. Smith noted should it run longer than the sixty days he would come back to do the renewal. Councilmember Carpenter so moved, the modified motion was seconded by Councilmember Feserman. Motion carried in the affirmative by Councilmember Bass, with Councilmember Hunter voting against.

- c. Closed Session to discuss the purchase of property for a Public Works building. Mayor Fowler moved this item to end of meeting.

8. COMMUNICATIONS:

9. NEW BUSINESS:

1. Michelle Englehart to address Council concerning "quill flags" at Espresso Hill, Inc. Ms. Englehart did not choose to speak again.
2. Request from Cassandra Murphy to serve beer and wine only at a wedding rehearsal dinner on July 19, 2013, in the Wetlands Center at J. F. Gregory Park.

Councilmember Bass made a motion to approve the request from Cassandra Murphy to serve beer and wine only at a wedding rehearsal dinner on July 19, 2013, in the Wetlands Center at J. F. Gregory Park. The motion was seconded by Councilmember Feserman and carried by all.

10. PUBLIC COMMENTS

Motion to Enter Into a Closed Meeting of a City Council

Council member Hunter makes the following motion:

(1) That this Mayor and Council now enter into closed session as allowed by O.C.G.A. §50-14-4 and pursuant to advice by the City Attorney, for the purpose of discussing the following: Land Acquisition.

(2) That this body, in open session, adopt a resolution authorizing and directing the mayor or presiding officer to execute an affidavit in compliance with O.C.G.A. §50-14-4, and that this body ratify the actions of the council taken in closed session and confirm that the subject matters of the closed session were within exceptions permitted by the open meetings law, said resolution to be in the form as attached hereto.

Motion Approved

The motion was seconded by Councilmember Carpenter.

Those voting in favor of the motion for closure: Council Members Carpenter, Bass, and Fesperman.

Councilmember Carpenter made a motion to reenter into open session. The motion was seconded by Councilmember Hunter, motion carried in the affirmative by Councilmembers Bass and Fesperman.

Mayor Fowler read the following resolution authorizing the signing of a

Resolution of the Richmond Hill City Council

BE IT RESOLVED by the Richmond Hill City Council as follows: At the meeting held on the 5th day of February, 2013, the Council entered into closed session for the purpose of discussing Land Acquisition. At the close of the discussions upon this subject, the Council did vote to re-enter into open session and herewith takes the following action in open session:

(1) The actions of the Council and the discussions of the same regarding the matter set forth for closed session purposes are hereby ratified.

(2) Each member of this body does hereby confirm that to the best of his or her knowledge, based upon the advice of the City Attorney, the said subject matter of the meeting and of the closed session portion was devoted to matters within the specific relevant exception(s) as set forth above.

(3) The Mayor, or presiding officer, is hereby authorized and directed to execute an affidavit, with full support of the members of this Council, in order to comply with O.C.G.A. §50-14-4(b).

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(4) The affidavit shall be included and filed with the official minutes of the meeting and shall be in a form as required by the statute, which shall be substantially as follows:

Approved this 5th day of February, 2013.

Councilmember Carpenter made a motion to approve the resolution. The motion was seconded by Councilmember Bass, motion carried in the affirmative by Councilmembers Hunter and Fesperman.

Affidavit

Personally appeared before the undersigned-attesting officer, duly authorized to administer oaths, E. Harold Fowler, who, after being duly sworn, deposes and on oath states the following:

(1) I was presiding officer of a meeting of the Richmond Hill City Council held on the 5th day of February, 2013.

(2) That it is my understanding that O.C.G.A §50-14-4(b) provides as follows:

When any meeting of an agency is closed to the public pursuant to subsection (a) of this Code section, the chairperson or other person presiding over such meeting shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exceptions.

(3) The subject matter of the closed meeting or closed portion of the meeting held on the 5th of February, 2013, which was closed for the purpose(s) of discussion of Land Acquisition as allowed by O.C.G.A, Title 50, Chapter 14, was devoted to matters within those exceptions and as provided by law.

(4) This affidavit is being executed for the purpose of complying with the mandate of O.C.G.A. §50-14-4(b) that such an affidavit be executed.

This 5th day of February, 2013.

Mayor/Presiding Officer

Sworn to and subscribed before me
this 5th day of February, 2013.

Notary Public

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Commission Expires

Councilmember Bass made a motion to adopt the affidavit. The motion was seconded by Councilmember Fesperman, motion carried in the affirmative by Councilmembers Carpenter and Hunter.

Councilmember Hunter made a motion to approve those actions taken by Council within the closed session for the acquisition of property and to instruct City Attorney Ray Smith, City Manager Chris Lovell, and the City Finance Director Bob Whitmarsh to proceed. The motion was seconded by Councilmember Carpenter, motion carried in the affirmative by Councilmember's Bass, and Fesperman.

Councilmember Carpenter made a motion to take a recess for refreshments only. The motion was seconded by Councilmember Fesperman and carried by all.

There being no further business, the meeting adjourned at 9:30 P. M. in a motion by Councilmember Carpenter seconded by Councilmember Bass and carried by all.

Respectfully submitted,

Ursula G. Lee
City Clerk