

City Council Meeting
10 N. Public Square
April 21, 2011
9:00 A.M. – Work Session 8:00 A.M.

I. Opening of Meeting

Invocation by Council Member Tonsmeire.

Pledge of Allegiance led by Council Member Tate.

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; Renee Faunce, Deputy City Clerk and Keith Lovell, Assistant City Attorney. Connie Keeling, City Clerk was absent.

II. Regular Agenda

A. Council Meeting Minutes

1. April 7, 2011

A motion to approve the April 7, 2011 City Council Minutes as presented was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

B. Swearing in of Civic Youth Day Officials

1. Civic Youth Day

Renee Faunce, Deputy City Clerk, administered the oath of office for Mayor, City Council, City Clerk, City Attorney and School Board to the Civic Youth participants.

C. Discussion

1. Cartersville School Superintendent Dr. Howard Hinesley

School Superintendent Dr. Howard Hinesley presented the Mayor and Council with a summary of the City School System's past accomplishments, future plans, and financial status. This informational session was initiated to have closer communication between the City and the School System.

D. Second Reading of Ordinances

1. Amendment to Motor Vehicle and Traffic Ordinance: No Parking on Postelle St.

Mr. Bobby Elliott, Public Works Director, stated that the Housing Authority has requested that parking be prohibited on Postelle Street. The Housing Authority has constructed new parking for residents on the interior of the housing complex. Mr. Elliott recommended approval of the amendment to the Motor Vehicle and Traffic Ordinance.

A motion to approve the amendment as recommended by Mr. Elliott was made by Council Member Tonsmeire and seconded by Council Member Hodge. Motion carried unanimously. Vote 6-0

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 **CITY OF CARTERSVILLE CODE OF ORDINANCES. CHAPTER 12. MOTOR VEHICLES AND TRAFFIC ARTICLE IX. TRAFFIC SCEDULES CODE SECTION 12-1005. PARKING PROHIBITED** is hereby amended by inserting the following to Section 12-1005 under the subparagraph for *Parking is prohibited in the following locations:*

1. "Postelle Street, both sides of street between Tennessee Street and Stonewall Street"
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, and that section 12-1005 is amended by adding the above provisions and that said section may be alphabetized as necessary to accomplish such intention. The remaining provisions of said section shall remain as is except for alphabetizing.

BE IT AND IT IS HEREBY ORDAINED

First Reading this the 7th day of April 2011.

ADOPTED this the 21st day of April. Second Reading.

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

ATTEST:

/s/ Renee Faunce
Renee Faunce
Deputy City Clerk

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

1. File AZ11-01: Annexation and Zoning Application by Nicholas Startup for Property Located at 42 Natchi Trail from County Jurisdiction to City R-20.

Mr. 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 42 Natchi Trail midway along this narrow street off Indian Mounds Road. This property backs up to Dellinger Park. The applicants seek to annex for City services. The property, if annexed, would be zoned R-20 (Single Family Residential). Mr. Mannino stated that the Planning Commission recommended approval of the annexation and zoning.

Mayor Santini declared a Public Hearing for the zoning application open. After no comments, Mayor Santini declared the Public Hearing closed.

Mayor Santini declared a Public Hearing for the annexation application open. With no comments, Mayor Santini declared the Public Hearing closed.

No Action required on first reading.

Ordinance

of the
City of Cartersville, Georgia

Ordinance No.

Petition No. AZ11-01

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 Nicholas Startup. Property is located at 42 Natchi Trail. Said property contains 1.4 acres located in the 4th District, 3rd Section, Land Lot(s) 812 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 21st day of April 2011.
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. AZ11-01

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 Nicholas Startup. Property is located 42 Natchi Trail. Said property contains 1.4 acres located in the 4th District, 3rd Section, Land Lot(s) 812 as shown on the attached plat Exhibit "A". Property is hereby rezoned from County A-1 (Agricultural) 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 21st day of April 2011.
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 Z11-02: Rezoning Application by Berrey Properties Inc (Randy Berrey, representative) for Property Located at 1009 and 1011 N. Tennessee Street (approximately 1.2 acres) from P-S (Professional Services) to O-C (Office Commercial).

Mr. 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 tracts are located at 1009 and 1011 N. Tennessee Street across the street from the Guyton Park (Fuddruckers) shopping center. These properties include former single-family residential structures that have been renovated for commercial use. The applicant seeks to rezone the properties from low-density commercial (P-S) to medium-density commercial (O-C) for greater potential use of the properties. Mr. Mannino stated that the Planning Commission recommended approval of the rezoning.

Mayor Santini declared a Public Hearing for the zoning application open. After no comments, Mayor Santini declared the Public Hearing closed.

No action required on first reading.

Ordinance
of the
City of Cartersville, Georgia
Ordinance No.
Petition No. Z11-02

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 Berrey Properties Inc. Property is located 1009 and 1011 N. Tennessee Street. Said property contains 1.23 acres located in the 4th District, 3rd Section, Land Lot(s) 239 as shown on the attached plat Exhibit "A". Property is hereby rezoned from P-S (Professional Services) to O-C (Office Commercial) with the following conditions. 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 21st day of April 2011.
ADOPTED this the day of. Second Reading.

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

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

F. Appointments

1. Historic Preservation Commission

Mr. Pete Alday, Director of Community Services, reported Mr. Bill Lyerla has resigned as a member of the Historic Preservation Commission. Mr. Lyerla’s term expires September 7, 2011. The Historic Preservation Commission has recommended Mr. Larry Gregory to fill the unexpired term and the new three year term which will expire September 2014.

A motion to approve the recommendation of the Historic Preservation Commission was made by Council Member Tate and seconded by Council Member Hodge. Motion carried unanimously. Vote 6-0

G. Resolutions

1. Pill Mill Moratorium

Mr. Keith Lovell, Assistant City Attorney, reported there has been a lot of press regarding the abuse of prescription drugs by individuals and some businesses in dispensing medication without appropriate safeguards and controls. Mr. Lovell recommended the Council approve a resolution which will impose a 12 month moratorium on allowing any new pain management clinics to locate in Cartersville. This will allow the local law enforcement adequate time to study and report on the situation to the Mayor and City Council and advise them of any further steps to take if needed.

A motion to approve the Resolution No. 07-11 as recommended by Mr. Lovell was made by Council Member Tonsmeire and seconded by Council Member Stepp. Motion carried unanimously. Vote 6-0

Resolution No. 07-11

WHEREAS, information received from law enforcement officials in several States indicate that criminal activity increase in area where pain management clinics operating as no more than 'pill mills' are located; and

WHEREAS, the Grand Jury in Broward County, Florida, heard testimony and considered evidence concerning the proliferation of such pain clinics in Broward County and South Florida; and

WHEREAS, the Broward County, Florida, Grand Jury issued it's Interim Report on November 10, 2009, concerning The Proliferation of Pain Clinics in South Florida ("Broward County Grand Jury Report"); and

WHEREAS, the Broward County Grand Jury Report found that "In 2007 there were four pain clinics operating in Broward County. From those 4 pain clinics in Broward County the number swelled to 66 pain clinics operating in South Florida in 2008. From August 2008 to November 2009 the number of pain clinics opening and operating in South Florida exploded in number from 66 to 176, and the number of pain clinics opening and operating in Broward County increased from 47 to 115. Pain clinics, which dispense prescription drugs on site, dispensed almost 9 million dose units of Oxycodone in South Florida during the last months of 2008. 6.5 million dose units of the 9 million dose units were dispensed in Broward County alone." Broward County Grand Jury Report at page six; and

WHEREAS, the Broward County Grand Jury Report reported that the Florida Medical Examiners Commission reported as follows:

Calendar Year	Number of Deaths Detected that were caused by Lethal doses of Prescription Drugs	Average Number of Deaths Detected that were Caused by Lethal Doses of Prescription Drugs
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2006	2,780	7 deaths/day
2007	3,317	9 deaths/day
2008	3,750	10 deaths/day

Broward County Grand Jury Report at pages 9-10; and Health Services administration estimates that in the last 30 days over 5 million Americans used non-medial prescription opoids or narcotic analgesics or pain relievers. In 2005, 11,300,000 Americans age 12 and above had used prescription pain medication in a non-medical use. In 2007, the number increased almost 50% to 16,280,000 Americans. One of the age groups that have shown the highest levels of prescription non-medical use has been young adults age 18 to 25. In 2007, 2,147,000 Americans were first time non-medical users of prescription pain medication." Broward County Grand Jury Report, at pages 11-12; and

WHEREAS, the City of Cartersville has great respect for reputable medical practitioners who are attempting to diagnose and treat pain being experienced by their patients; and

WHEREAS, the typical pain clinic, however, operating as no more than a "pill mill" has little or no interest in treating pain or the symptom of the pain but is interested in only dispensing prescription pain medication with little or no diagnosis of the "patient." See Broward County Grand Jury Report at pages 19-20; and

WHEREAS, the Broward County Grand Jury Report found that "[a] couple of cities in Broward County have attempted to restrict the growing number of clinics in their cities by enacting ordinances to prohibit the location of pain management clinics that dispense narcotic drugs on site." Broward County Grand Jury Report at page 33; and

WHEREAS, the typical 'pill mill' prescribes and dispenses the pain medications on-site; and

WHEREAS, the City of Cartersville has been made aware of numerous news reports describing a "pipeline" of trafficking drugs from pain management clinics in South Florida to users in States such as Kentucky, West Virginia and Ohio; and

WHEREAS, prescription drug abuse is becoming a major problem in Georgia and according to the Georgia Drug and Narcotics Agency deaths due to prescription drug overdoses have surpassed those of all other illicit drugs; and

WHEREAS, adoption of a moratorium on the issuance of business licenses to pain management clinics will provide the City of Cartersville an opportunity to develop ordinances and/or regulations that address the secondary effects of pain management clinics on residents, businesses, and the community; and

WHEREAS, some pain clinics have no interest in the diagnosis and treatment of medical issues or problems that are resulting in pain being experienced by the patients, but are operated solely to write prescriptions for highly addictive pain medications which are then sold by the clinic to the "patient" making such a clinic as no more that a "pill mill;" and

WHEREAS, this Resolution is intended to provide a moratorium on the issuance of business licenses to Pain Management Clinics which are operating as "pill mills."

NOW, THEREFORE, BE IT RESOLVED the Mayor and City Council approves the following definitions to be used in this Resolution concerning a moratorium on the issuance of business licenses to Pain Management Clinics within the City of Cartersville.

- 1. Findings of the City Council and Mayor. The Whereas clauses set forth above are incorporated by reference into this Resolution and represent the legislative findings of the Mayor and City Council and of the City of Cartersville.**
- 2. Definitions. As used within this Resolution, the following terms, when capitalized, shall have the meanings set forth here:**
 - 2.1. "Pain Management Clinic" shall mean an entity or business which fulfills all of the following criteria:**
 - 2.1.1. A privately owned clinic, business, or, office;**
 - 2.1.2. That is not affiliated with: any facility for the treatment of the terminally ill; or any facility for the treatment of drug addiction; or, any hospice; or any hospital; and,**
 - 2.1.3. Which employs one or more physicians who are primarily engaged in the treatment of pain by prescribing Pain Medications; and,**
 - 2.1.4. Which fills or dispenses those Pain Medications either at the same or a different location.**
 - 2.2. "Pain Medicine" shall mean any medicine requiring a prescription and which contains narcotic analgesics or opioids, including, but not limited to, fentanyl, hydrocodone, morphine, or oxycodone.**
 - 2.3. A physician is primarily engaged in the treatment of pain by prescribing any Pain Medication when the majority of the patients seen by that physician are written prescriptions for one or more Pain Medications.**
- 3. Moratorium. The City of Cartersville declares a moratorium having a duration of one (1) year from and after the adoption of this Resolution on the issuance or renewal of business licenses to Pain Management Clinics. Any person who wishes to open a business or medical practice which will both prescribe Pain Medicines and fill those prescriptions either on or off site must provide a signed, notarized statement and submit it with the application for a business license to the effect the business is not a Pain Management Clinic as that term is defined in this Resolution. No business license shall be issued or renewed unless and until this signed, notarized statement is submitted to the City of Cartersville. Should the signed, notarized statement prove to be false, the business license shall be revoked.**
- 4. Purpose of Moratorium. It is the purpose and intent of this Resolution to promote the health and general welfare of the residents and businesses of the City of Cartersville. This moratorium is designed to provide the City of Cartersville with sufficient time to analyze that impact of Pain Management Clinics and to consider whether further regulation of such Pain Management Clinics is necessary**
- 5. Effective Date. This Resolution and the resulting moratorium shall be effective immediately on passage and adoption.**

BE IT AND IT IS HEREBY RESOLVED this 21st day of April 2011.

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

ATTEST:

/s/ Renee Faunce

Renee Faunce

Deputy City Clerk

H. Contracts/Agreements

1. Contract for Performing Services – Cartersville Optimist Club/July 4th

City Manager, Sam Grove, stated this is an annual contract between the City of Cartersville and the Optimist Club for police and fire services during the Fourth of July festivities at Dellinger Park. Mr. Grove recommended approval of the contract.

A motion to approve the contract as recommended by Mr. Grove was made by Council Member Tonsmeire and seconded by Council Member Pruitt. Motion carried unanimously. Vote 6-0

I. Bid Award/Purchases

1. Roof for Water Distribution and Collection Building

Mr. Jim Stafford, Water & Sewer Superintendent, reported the roof on the distribution and collection building is leaking in multiple places. Bids were received to replace the roof and paint the building. Mr. Stafford recommended the low bid from Hampson Construction in the amount of \$22,400 dollars.

A motion to approve the low bidder as recommended by Mr. Stafford was made by Council Member Hodge and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

2. Security System at Water Distribution & Collections

Mr. Jim Stafford, Water & Sewer Superintendent, stated the security system at the Distribution and Collections building is non-functional. The system has to be replaced to secure the building. Bids were received and Mr. Stafford recommended approval of the low bid from Fleetwood Security and Electronic Services, Inc. in the amount of \$8,549 dollars.

A motion to approve the low bidder as recommended by Mr. Stafford was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

3. Distribution & Collections Inventory Stock

Mr. Jim Stafford, Water & Sewer Superintendent, explained the Water Department needs to restock some inventory items that have fallen below their order point quantity. Bids were received and Mr. Stafford recommended the low bid from HD Supply Waterworks, Ltd in the amount of \$26,400.70.

A motion to approve the low bidder as recommended by Mr. Stafford was made by Council Member Tonsmeire and seconded by Council Member Pruitt. Motion carried unanimously. Vote 6-0

4. City Hall Foundation Repair and New Carpeting

Public Works Director Bobby Elliott, reported water has seeped through the foundation wall of the City Hall building at the rear of the building for many years. Public Works has met with several local contractors and received cost estimates for the repairs to the building and the replacement of carpet in the customer service area of the building. The public works department will be working with the contractors in order to

keep the costs down as much as possible. Mr. Elliott explained that bids were received on the replacement of the carpet and recommended the low bid from Gilreath Carpet in the amount of \$3,136 dollars. However, the project itself is hard to take bids on due to the fact that until it is uncovered, we don't know exactly what is involved. The total of foundation repairs is not to exceed \$15,800 dollars. Mr. Elliott recommended approval of the following contractors:

Quik-Cut Tree Service:	Tree Removal
Johnny's Grading:	Excavations
Pendley Heating and Air:	HVAC Compressor Unit Relocations
Ranger Foundations:	Waterproofing
Public Works Crew:	Debris Removal, Concrete Replacement, Landscaping, and any remodeling repairs relative to wall foundation work.

Mr. Elliott stated this is not a budgeted project and this would require a budget amendment at the end of the fiscal year.

A motion to approve the low bid from Gilreath Carpet and the above contractors as recommended by Mr. Elliott but not to exceed a total cost of \$20,000 dollars was made by Council Member Tonsmeire and seconded by Council Member Hodge. Motion carried unanimously. Vote 6-0

J. Monthly Financial Statement

1. February 2011

Tom Rhinehart, Finance Director, presented the February 2011 monthly financial statement with comparisons from the previous year of February 2010, 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 February 2011.

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/ _____
Renee Faunce
Deputy City Clerk