

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

I. Opening Meeting

Invocation by Mayor Matt Santini

Pledge of Allegiance led by Council Member Jayce 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; Dianne Tate, Council Member Ward Five; Lori Pruitt, Council Member Ward Six; Sam Grove, City Manager; Catheryn Hembree, Deputy City Clerk and Keith Lovell, Assistant City Attorney. Lindsey McDaniel, Council Member Ward Four; Connie Keeling, City Clerk; and David Archer, City Attorney were absent.

II. Regular Agenda

A. Council Meeting Minutes

1. October 17, 2013

A motion to approve the October 13, 2013 City Council Meeting Minutes as presented was made by Council Member Tate and seconded by Council Member Stepp. Motion carried unanimously. Vote 5-0

B. Public Hearings – 2nd Reading of Zoning/Annexation Request

1. File Z13-05: Rezoning application by John Adams for property located at 217 Cassville Road (approximately 0.43 acres) from MF-14 to O-C.

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 states that this tract is located at 217 Cassville Rd, near the Cartersville Public Safety Headquarters. The property includes as house built in approximately 1945. In early 2013, City staff discovered that a Halfway House was operating in this residence. Since this use is not allowed at the property's current zoning the property owner has chosen to apply to rezone the property. Mr. Mannino stated that the City of Cartersville Fire Department officials have conducted a site visit, viewing the interior and exterior of the house. CFD staff has stated that they do not have any objections to the application as long as the person responsible for this use follow all adopted fire codes relating to the type of occupancy that exists at the location. Mr. Mannino stated that there have been no additions or corrections since the first reading and the Planning Commission has recommended approval.

Mayor Santini opened the floor for a public hearing. John Adams came forward in spoke in favor of the rezoning. With no further comments Mayor Santini closed the public hearing.

A motion to approve Ordinance No. 23-13 was made by Council Member Tate and seconded by Council Member Hodge. Motion carried unanimously. Vote 5-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 23-13

Petition No. Z13-05

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 John Adams. Property is located 217 Cassville Road. Said property contains .043 acres located in the 4th District, 3rd Section, Land Lot(s) 342 as shown on the attached plat Exhibit "A". Property is hereby rezoned from MF-14 (Multi Family) to O-C (Office Commercial). 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 17th day of October 2013.

ADOPTED this the 7th day of November 2013. Second Reading.

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

ATTEST:

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

2. File AZ13-03: Annexation and zoning application by Shaw Industries Group (John Wilkinson, representative) for property located at the southeast corner of Douthit Ferry Road and Old Mill Road (approximately 5.92 acres) from Bartow County jurisdiction to City O-C (Office Commercial)

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 the southeast intersection of Douthit Ferry Road and Old Mill Road. The properties include a bank built in approximately 2004. Although these properties are not donut holes all lots to the north, east, and west are in the city limits. The applicant has stated that he would like the green field lot of nearly five acres to be annexed and combined with adjoining Shaw property. The bank on the corner would need to be annexed at the same time since future annexations cannot create new donut holes. Mr. Mannino stated that if annexed the properties would be zoned O-C (Office Commercial). There have been no additions or correction since the first reading and the Planning Commission has recommended approval.

Mayor Santini opened the floor for a public hearing for the rezoning. With no further comments Mayor Santini closed the public hearing.

Mayor Santini opened the floor for a public hearing for the annexation. With no further comments Mayor Santini closed the public hearing.

A motion to approve Ordinance No. 24-13 was made by Council Member Tonsmeire and seconded by Council Tate. Motion carried unanimously. Vote 5-0

A motion to approve Ordinance No. 25-13 was made by Council Member Hodge and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 24-13

Petition No. AZ13-03

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 Shaw Industries Group, Inc. Property is located Douthit Ferry Road and Old Mill Road. Said property contains 5.92 acres located in the 4th District, 3rd Section, Land Lot(s) 632 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 17th day of October 2013.

ADOPTED this the 7th day of November 2013. 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. 25-13

Petition No. AZ13-03

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 Shaw Industries Group Inc. Property is located Douthit Ferry Road and Old Mill Road. Said property contains 5.92 acres located in the 4th District, 3rd Section, Land Lot(s) 632 as shown on the attached plat Exhibit "A". Property is hereby rezoned from County C-!(Commercial) and A-1 (Agricultural) to O-C (Office Commercial). 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 17th day of October 2013.

ADOPTED this the 7th day of November 2013. Second Reading.

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

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

3. File SU13-05: Special Use application by Jay Frazier for property located at 310 N. Tennessee Street (approximately 0.46 acres) to allow a pawn and/or title pawn shop in the M-U District.

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 lot is located at 310 North Tennessee Street and includes a multi-tenant office, retail and service use building. The applicant has operated a gun store in one of the tenant spaces for the last few years, and now proposes to expand his business to include pawn and/or title pawn. Mr. Mannino stated that all City Departments have reviewed the application and the Cartersville Police Department stated that it would be a concern if there would be outside storage. Mr. Mannino stated that there have been no additions or corrections since the first reading and the Planning Commission recommended approval with the condition that there shall be no outside storage on the property.

Mayor Santini opened the floor for a public hearing. Jay Frazier came forward and spoke in favor of the special use application. With no further comments Mayor Santini closed the public hearing.

A motion to approve Ordinance No. 26-13 with the condition of no outside storage was made by Council Member Stepp and seconded by Council Member Hodge. Motion carried unanimously. Vote 5-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 26-13

Petition No. SU13-05

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 Jerry Williams. Property is located at 310 North Tennessee Street. Said property contains 0.46 acres located in the 4th District, 3rd Section, Land Lot(s) 410 as shown on the attached plat Exhibit "A". Property is hereby rezoned to M-U (Multiple Use) Special Use to allow pawn and/or title pawn shop as part of existing business with the following conditions. Zoning will be duly noted on the official zoning map of the City of Cartersville, Georgia.

- a. There will be no outside storage on property.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 17th day of October 2013.

ADOPTED this the 7th day of November 2013. Second Reading.

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

ATTEST:

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

C. Resolutions

1. Approval of Capital Improvements Element Annual Update and Corresponding Transmittal Resolution.

Randy Mannino, Planning and Development Director, stated that Cartersville adopted Impact Fees in the last quarter of 2006 that went into effect in January 2007. In accordance with the Development Impact Fee Regulations as outlined by the state, we are required to file an annual update to the Capital Improvement Element (CIE) of the Comprehensive Plan. We are

required to hold a public hearing regarding the update and forward it with a transmittal resolution to the Northwest Georgia Regional Commission and the Department of Community Affairs. After review, the document needs to be adopted by Council, and a copy sent to the Regional Commission. At this time the document is in “draft” form and the final version will be distributed for review before adoption. Mr. Mannino recommended approval.

Mayor Santini opened the floor for a public hearing. With no further comments Mayor Santini closed the public hearing.

A motion to approve the Capital Improvements Element Annual Update Resolution was made by Council Member Tonsmeire and seconded by Council Member Tate. Motion carried unanimously. Vote 5-0

Resolution No. 22-13

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

Capital Improvements Element

WHEREAS, The City of Cartersville adopted a Capital Improvements Element as an amendment to the *Cartersville Comprehensive Plan*; and

WHEREAS, The City of Cartersville has prepared an Annual Update to the adopted Capital Improvements Element; and

WHEREAS, the Capital Improvements Element Annual Update was prepared in accordance with the “Development Impact Fee Compliance Requirements” and the “Minimum Planning Standards and Procedures for Local Comprehensive Planning” adopted by the Board of Community Affairs pursuant to the Georgia Planning Act of 1989, and a duly advertised Public Hearing was held on November 7, 2013, at 7:00 P.M. in the City Council meeting room at Cartersville City Hall;

BE IT THEREFORE RESOLVED, that the City Council of the City of Cartersville does hereby submit the draft Capital Improvements Element Annual Update to the Northwest Georgia Regional Commission for Regional and State review, as per the requirements of the Development Impact Fee Compliance Requirements.

ADOPTED this the 7th day of November 2013.

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

ATTEST:

**/s/ Catheryn Hembree
Catheryn Hembree
Deputy City Clerk**

2. Correction to 2008 Quitclaim Deed to Sandlot Development, LLC

Sam Grove, City Manager, stated that this resolution is to correct the wrong parcel number referenced in the deed for property the City transferred to Sandlot Development, LLC in November 2008. Mr. Grove recommended approval,

A motion to approve the correction to 2008 Quitclaim Deed to Sandlot Development, LLC was made by Council Member Hodge and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

Resolution No. 23-13

WHEREAS, on November 6, 2008 Mayor and City Clerk executed a deed to transfer acreage to Sandlot Development, LLC as part of a property transfer;

WHEREAS, when said Deed was recorded, it referenced the wrong parcel number;

WHEREAS, the proposed Deed corrects this error;

NOW THEREFORE BE IT AND IT IS HEREBY RESOLVED by the Mayor and City Council that the City of Cartersville is hereby authorized to execute said Quitclaim Deed, attached as Exhibit "A" and authorizes the City Attorney to attend the closing on its behalf and authorizes the Mayor and City Clerk to execute any and all documents pertaining to said purchase on behalf of the City of Cartersville.

ADOPTED this the 7th day of November 2013.

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

ATTEST:

/s/ Catheryn Hembree
Catheryn Hembree
Deputy City Clerk

D. First Reading of Ordinances

1. Text Amendment to City Ordinance 11-146 thru 11-160, Miscellaneous Provision of Code of Ordinances relating to the sale, manufacture, distribution, etc. of "so-called" synthetic marijuana.

Frank McCann, Assistant Police Chief, stated that the Police Department is requesting the amendment to the Code of Ordinances relating to Miscellaneous Offences; particularly that of "so-called" synthetic marijuana. The City needs to enact this ordinance so that we do not become a synthetic marijuana island, where persons desiring to purchase such products come to support their dangerous habit. Bartow County has recently enacted a similar ordinance. The ordinance would aid in the equitable enforcement of these products throughout the county and city. Assistant Chief McCann requested this be an Emergency Reading based on public safety and welfare. Assistant Chief McCann recommended approval.

A motion to approve Text Amendment to City Ordinance No. 27-13 was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 27-13

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 11. MISCELLANEOUS PROVISIONS AND OFFENSES. ARTICLE IV. OFFENSES INVOLVING PUBLIC SAFETY. Sec. 11-146 – 11-160. Reserved.** is hereby amended:

1.

WHEREAS, the City of Cartersville has been informed through reports from local law enforcement of the continuing manufacture, sale, distribution, delivery and/or use throughout the State of Georgia of certain dangerous substances defined under this Ordinance as "Unregulated Marijuana Substitutes" that mimic the effects of marijuana or "synthetic cannabinoids" (or "synthetic marijuana", "K2" or "Spice") despite the efforts of

the Georgia General Assembly to regulate “synthetic cannabinoids” (or “synthetic marijuana”, “K2” or “Spice”) as a Schedule 1 controlled substance under Code Section 16-13-25 of the Official Code of Georgia and the 2012 Act of the General Assembly known as “Chase’s Law”; and

WHEREAS, in particular, the City of Cartersville is aware of the growing movement among manufacturers of synthetic cannabinoids to circumvent the laws of the State of Georgia (and the laws of other states regulating “synthetic cannabinoids”, “synthetic marijuana”, “K2” or Spice) and frustrated enforcement efforts by manufacturing “Unregulated Marijuana Substitutes” by altering the chemical formula, molecular structure and/or composition of “synthetic cannabinoids” so as to make said substances undetectable or unidentifiable as banned Schedule 1 controlled substances under Georgia law; and

WHEREAS, like “synthetic cannabinoids”, these Unregulated Marijuana Substitutes are commonly packaged and marketed as “potpourri”, “bath salts”, “plant food”, “herbal smoking blends”, “incense” and/or “herbal incense” to disguise their dangerous nature, but are commonly being used as an alternative to marijuana or “synthetic cannabinoids”, have been typically sold online, in head shops, tobacco shops, various retail outlets and at some gas stations, and may be sold and marketed under a variety of names including but not limited to “K-2”, “K-2 SUMMIT”, “GENIE”, “DASCENTS”, “ZOHAI”, “SAGE”, “SPICE”, “KO KNOCKOUT 2”, “SPICE GOLD”, “SPICE DIAMOND”, “SPICE SILVER”, “YUCATAN FIRE”, “SOLAR FLARE”, “PEP SPICE”, “FIRE N’ ICE”, “BLACK MAGIC SMOKE”, “SALVIA DIVINORUM”, “EXTREME POTPOURRI”, “HAYZE TRAINWRECK”, “SKUNK”, “FAKE WEED”, “MOON ROCKS”, “MR. SMILEY”, “RED X DAWN”, “BLAZE”, “BLACK MAMBA”, “BOMBAY BLUE” and “BLISS”; and

WHEREAS, like “synthetic cannabinoids”, these Unregulated Marijuana Substitutes are reported by the medical community to produce a very potent, intoxicating effect ranging from three to one hundred times greater and more potent than Tetrahydrocannabinol (“THC”), the active ingredient in marijuana; and

WHEREAS, these Unregulated Marijuana Substitutes manifest all of the demonstrated attributes of substances that deprive persons of judgment, coordination and the ability to conduct themselves in a safe and appropriate manner in modern society, and are reported to cause hallucinations, vomiting, agitation, panic attacks, tachycardia, elevated blood pressure, pallor, numbness and tingling, disorientation, loss of time awareness, and in some cases, tremors, seizures, kidney failure and loss of consciousness; and

WHEREAS, due to the proliferation of Unregulated Marijuana Substitutes in the retail marketplace and the continued sale and use of Unregulated Marijuana Substitutes following the passage of amendments to Code Section 16-13-25 of the Official Code of Georgia including the 2012 enactment of “Chase’s Law”, the Georgia State Board of Pharmacy recently enacted an emergency rule on June 12, 2012 to specifically classify five additional compounds as “synthetic cannabinoids” that are banned from over-the-counter sales; however the recently enacted emergency rule of the Georgia State Board of Pharmacy does not allow for arrests or criminal prosecution until further action by the Georgia Legislature, and the current Georgia law regulating “synthetic cannabinoids” still allows for the very real threat of manufacturers continuing to alter the chemical formula, molecular structure and/or composition of “synthetic cannabinoids” so as to make said substances undetectable or unidentifiable as banned Schedule 1 controlled substances under Georgia law; and

WHEREAS, the continuing efforts of manufacturers of “synthetic cannabinoids” to circumvent the laws of the State of Georgia and prevent enforcement efforts by constantly altering the chemical formula, molecular structure and/or composition of these dangerous substances poses a serious and imminent threat to the public health, safety and welfare of the citizens of Bartow County, particularly the youth of the City of Cartersville; and

WHEREAS, the Mayor and City Council of the City of Cartersville desires to broaden or strengthen current Georgia law prohibiting the purchase, possession,

manufacture, distribution, sale, delivery or use of “synthetic cannabinoids” by regulating the purchase, possession, manufacture, distribution, sale, delivery or use of Unregulated Marijuana Substitutes; and operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law, except that the General Assembly may by general

WHEREAS, the Georgia Constitution provides that “[l]aws of a general nature shall have uniform law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws.” Ga. Const. 1983, Art. III, Sec. VI, Par. IV(a).

WHEREAS, Courts have repeatedly held that the above constitutional provision prevents local governments from duplicating state regulatory requirements or criminalizing an activity that is already criminalized under state law. *Jenkins v. Jones*, 209 Ga. 758, 762 (1953) (city cannot make it a crime to drive while intoxicated because the exact same activity is already a crime under state law); *City of Atlanta v. S.W.A.N. Consulting & Sec. Services, Inc.*, 274 Ga. 277, 280 (2001) (city cannot regulate private detective agency serving as bouncers at strip clubs when the agency is already regulated by the state); *City of Buford v. Georgia Power Co.*, 276 Ga. 590, 590 (2003) (city cannot regulate electrical power substations because the Public Services Commission has the authority to regulate those substations).

WHEREAS, while the City of Cartersville may not duplicate regulatory requirements set forth in the general law of the state or criminalize an activity that is already criminalized under general law (See *Jenkins v. Jones*, 209 Ga. 758, 762, 75 S.E.2d 815 (1953)), it may enact a special law regulating an activity so long as that special law does not conflict with a general law, that is, so long as the special law does not detract from or hinder the operation of the existing general law, but rather augments and strengthens it. *Grovenstein v. Effingham County*, 262 Ga. 45, 47, 414 S.E.2d 207, 210 (1992) (citing *City of Atlanta v. Associated Builders & Contractors of Ga.*, 240 Ga. 655, 657, 242 S.E.2d 139 (1978)); see also *Bd. of Com'rs of Miller County v. Callan*, 290 Ga. 327, 333, 720 S.E.2d 608, 613 (2012); *Pawnmart, Inc. v. Gwinnett County*, 279 Ga. 19, 21, 608 S.E.2d 639, 641 (2005).

WHEREAS, the City of Cartersville may also enact regulations to protect the health, safety, and general welfare of the public under its police powers. Ga. Const. of 1983, Art. IX, § 2, ¶ III; Ga. Const. of 1983, Art. III, § 6, ¶ IV(a); O.C.G.A. § 36-35-3; and

WHEREAS, the regulation of the purchase, possession, manufacture, distribution, sale, delivery or use of Unregulated Marijuana Substitutes does not detract or hinder the operation of the existing Georgia law, but rather, is filling a gap in the existing general law to account for a chemical compound or substance that is ever changing, and this regulation is designed with the specific intent to augment and strengthen the existing general law as opposed to regulating an activity that is already regulated by state law.

Sec. 11-146

Prohibition on the Sale, Manufacture, Use, Delivery, Purchase, Possession or Distribution of Unregulated Marijuana Substitutes.

(a) Definitions. The following words as used in this section shall have the following prescribed meaning:

(1) Unregulated Marijuana Substitutes shall mean and refer to any compounds or substances, whether described as tobacco herbs, incense spice, aromatherapy incense, bath salts, potpourri, herbal smoking blends, plant food, aromatic substance that may cause a sense of euphoria, novelty aromatic, or any blend thereof, regardless of whether the compound or substance is marketed for the purpose of being smoked, injected, inhaled or ingested by humans or for human consumption, that

(a) is not currently or hereinafter regulated as a Schedule 1 controlled substance under Georgia law (including the following Georgia law: Code Section 16-13-25 of the Official Code of Georgia, any amendments to Code Section 16-13-25 of the Official Code of

Georgia including the 2012 Act of the Georgia General Assembly known as “Chase’s Law”, and the emergency rule of the Georgia State Board of Pharmacy enacted on June 12, 2012 declaring five specific additional compounds as “synthetic cannabinoids” that are Schedule 1 controlled substances under Georgia law),

(b) is privately compounded, with the specific intent to circumvent the criminal penalties for synthetic cannabinoids under Georgia law, and

(c) Emulate, simulate or mimic the effects of marijuana or synthetic cannabinoids through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent.

(2) Synthetic cannabinoids shall mean and refer to those certain compounds or substances (also commonly known or referred to in general as “Spice” or “K2”) that mimic, emulate or simulate the effects of marijuana or the active ingredient in marijuana (Tetrahydrocannabinol) that are specifically listed and identified as Schedule 1 controlled substances under Code Sections 16-13-25(3) and 16-13-25(12) of the Official Code of Georgia, any amendments thereto, or any other Code Section of the Official Code of Georgia.

(3) Substituent shall mean an atom or group that replaces another atom or group in a molecule.

(4) Radical shall mean and refer to a group of atoms that enters into and goes out of chemical combination without change and that forms one of the fundamental constituents of a molecule.

(5) Person shall mean and refer to any individual, natural person, partnership, firm, corporation, joint venture, proprietorship, business entity, association, agency, group, organization or group of persons or any other entity.

(b) It shall be unlawful for any person to use, sell, give, manufacture with intent to sell, possess, purchase, deliver, transport or distribute any Unregulated Marijuana Substitutes within the limits of City of Cartersville.

(c) Any person violating this section as it exists or may be amended, upon conviction, shall be punished by the imposition of a fine not to exceed \$1,000.00, by imprisonment in the county jail for a period of time not to exceed sixty (60) days, or by both such fine and imprisonment. Each day any violation of this section shall continue shall constitute a separate offense.

(d) Conviction for a violation of this section may also result in the city revoking any person’s privilege of operating a business within the limits of the city.

Sec. 11-147

Repealer.

All ordinances or resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

Sec. 11-148

Severability.

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable. Should any section, paragraph, sentence, clause or phrase of this ordinance be rendered invalid by any court of law, the remaining sections, paragraphs, sentences, clauses or phrases shall not be affected but shall continue in effect until amended or repealed by action of the governing authority of the City of Cartersville.

At the request of the Bartow-Cartersville Drug Task Force this ordinance is to be deemed emergency in nature and require one reading due to the continuing effects of the Public's safety and health due to the proliferation and use of said substances described in this ordinance.

3.

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 the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

ADOPTED this the 7 day of November 2013. Emergency Reading.

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

ATTEST:

/s/ Catheryn Hembree
Catheryn Hembree
Deputy City Clerk

2. Amendment to Utility Fees Ordinance

Dan Porta, Assistant City Manager, stated that part of this fiscal year's budget City customers who pay utility bills, permits, invoices, etc. to the City with a credit or debit card were to begin paying a convenience fee to offset the credit card processing fees that have been paid by the City. The change to the ordinance sets this fee at 2.5%. Mr. Porta recommended approval.

NO ACTION REQUIRED

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. - 13

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that the Code of Ordinances City of Cartersville, Georgia CHAPTER 24. UTILITIES, Sec. 24-21. Schedule of Charges, etc., (12) i. Additional charges is hereby amended by deleting said section in its entirety and replacing as follows:

Section 24-21. Schedule of Charges, etc.
“(12) Additional charges.

- i. City customers who pay for utility bills and other city invoices with a credit or debit card will be charged a 2.5% convenience fee.**

BE IT AND IT IS HEREBY ORDAINED.

ADOPTED this the 7th day of November 2013. First Reading
ADOPTED this the day of . Second Reading.

/s/ Matthew J. Santini
Matthew J. Santini

Mayor

ATTEST:

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

E. Contracts/Agreements

1. 2014 Health Insurance Renewal with Cigna

Dan Porta, Assistance City Manager, stated that bids were solicited for employee health insurance. After reviewing the proposals, it was determined the best option was to stay with Cigna. There will be no benefit plan changes with a 6.91% rate increase. After meeting with ShawHankins, Mr. Porta requested that Cigna review their proposal. They came back and reduced their renewal to a 4.6% rate increase with no plan benefit changes. Due to the Affordable Care Act, out of pocket maximums in 2014 and future years will include co-pays that employees have already been paying to doctors and pharmacists. The ACA requires the co-pays, calendar year deductibles, and co-insurance amounts be counted toward the out of pocket maximum. The existing calendar year deductible is \$3,000 for single, and \$6,000 for family; and co-insurance is \$1,500 single, and \$3,000 family. After reviewing a report from Cigna it was determined that a \$500 co-pay amount was sufficient. Based on this, the renewal option recommended is a 3.97% rate increase over the current year's rate. Mr. Porta recommended approval.

A motion to approve the 2014 Health Insurance Renewal with Cigna was made by Council Member Stepp and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

2. Annual Assessment for Membership in the Northwest Georgia Regional Commission

Sam Grove, City Manager, stated that the annual dues for membership and participation in the Northwest Regional Commission, this is for July 1, 2013 through June 30, 2014 in the amount of \$19,810.00. Mr. Grove recommended approval.

A motion to approve the Annual Assessment for Membership in the Northwest Georgia Regional Commission was made by Council Member Tonsmeire and seconded by Council Member Tate. Motion carried unanimously. Vote 5-0

F. Easements

1. Leake Mounds Trail ROW Easement – Hamilton State Bank

Greg Anderson, Parks & Recreation Director, stated that this Right of Way easement is the final parcel acquisition for the Leake Mounds-Etowah River Walk link; located adjacent to the Water Department on Walnut Grove Road. The property was appraised for \$6,100.00. Mr. Anderson stated that this was not a budgeted item but will be paid for as part of the trail expense budgeted for this year. Mr. Anderson recommends approval.

A motion to approve purchase of the Leake Mounds Trail ROW Easement from Hamilton State Bank was made by Council Member Stepp and seconded by Council Member Tate. Motion carried 4-1 with Council Member Hodge voting against

G. Change Order

1. Final Adjustment Change Order Sanitary Sewer Manhole Installation Project

Ed Mullinax, Water Department Director, stated that the City had approved the agreement to Hill City Utilities for Sanitary Sewer Manhole Installations for an amount of

\$28,000.00. Due to unforeseen conditions and corrections to the pipe and manhole defects encountered resulted in a \$12,500.000 increase to the project. The repairs and improvements will significantly reduce storm water infiltration. The Final Adjusted amount is \$41,100.00. Mr. Mullinax recommended approval.

A motion to approve the Final Adjustment Change was made by Council Member Pruitt and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

2. Final Adjustment Change Order for Water Treatment Plant Valve Vault Installation Project.

Ed Mullinax, Water Department Director, stated that the original Water Treatment Plant Valve Vault Installation Project with C and L Contractors was for \$76,067.50. However an increase of \$58,100.00 occurred due to repairs of valves and relocation of existing utilities. Mr. Mullinax recommended approval.

A motion to approve Final Adjustment Change Order was made by Council Member Pruitt and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

H. Other

1. Asset Management Software Renewal and Training

Ed Mullinax, Water Department Director, stated that the Water Department uses a software system from SEMS Technologies for asset management and work orders. The annual software user license renewal and annual Webinar training subscription is due. The total annual fee is \$7,545.00 and Mr. Mullinax recommended approval.

A motion to approve the Asses Management Software Renewal and Training was made by Council Member Tate and seconded by Council Member Hodge. Motion carried unanimously. Vote 5-0

I. Bid Award/Purchases

1. Center Road 24-Inch Gravity Sewer Replacement Project – Construction Project

Ed Mullinax, Water Department Director, stated that the Water Department was replacing a sewer line paralleling Center Road between Rowland Springs Road and the entrance to Hamilton Township. The design was prepared and bid received by four contractors. Jacobs Engineering Group has provided a Recommendation of Award of this contract to T.J. Lyle and Co, Inc. of Taylorsville in the amount of \$418,255.61. The Water Department concurs with this recommendation.

A motion to approve the Agreement with T.J. Lyle & Co, Inc. was made by Council Member Tonsmeire and seconded by Council Member Pruitt. Motion carried unanimously. Vote 5-0

2. Fiber Installation for Water Tank on Center Road

Dan Porta, Assistant City Manager, stated that as part of the work on the City's water tank on Center Road, fiber cable was installed to service the telemetry equipment. This project was completed by Parker Systems at the cost of \$65,106.50. Mr. Porta recommended approval of this payment.

A motion to approve the payment of Fiber Installation for Water Tank of Center Road was made by Council Member Hodge and seconded by Council Member Tate. Motion carried unanimously. Vote 5-0

3. Firefighter's Annual Clearance Physicals

Scott Carter, Fire Chief, stated that the contract for the annual firefighter physicals per

NFPA 1582 and OSHA 1910.156 was due. The firm, SiteMed, has performed the physicals for the past four years and has developed a departmental profile and standard. Beyond annual physicals they are involved in the specialized clearance of all haz mat team members and any firefighters who sustain significant injury or illness to assist in returning them back to duty. It provides a departmental physician per the requirement of NFPA 1500. Chief Carter requested an approval of an amount up to and not exceed \$19,750.00. This includes \$18,460.00 for all base line physicals and the remainder is additional lab work as required for haz mat team members and additional testing that may be required after baselines are completed. Chief Carter recommended approval.

A motion to approve the Firefighter's Annual Clearance Physicals was made by Council Member Pruitt and seconded by Council Member Stepp. Motion carried unanimously. Vote 5-0

4. Line Truck Rebuild

Don Hassebrock, Director of the Electric Department, stated that they have a 2001 vintage truck that needs a complete rebuild on the boom. Their practice is to do a complete rebuild every 10 years and retire the truck after 20 years. The Electric Department has found that a complete rebuild after 10 years allows them to get the ultimate usage out of a truck. There are only two major manufacturers that build and maintain the upper boom portion of the truck. These two manufacturers are Terex and Altec. From past experience it was found that the best quality of workmanship and performance was achieved by letting the manufacturer repair their truck. This truck was manufactured by Terex and proposed \$47,978.31 to rebuild. The item is budgeted as part of ongoing maintenance of existing equipment. Mr. Hassebrock recommended approval.

A motion to approve the Line Truck Rebuild was made by Council Member Hodge and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 5-0

5. Compactor Cylinders for Commercial Garbage Truck

Tommy Sanders, Public Works Director, requested the approval to purchase the compact cylinders needed to repair one of the commercial front loader garbage trucks and put the truck back in service. The sole source of equipment is from the truck body manufacturer and will be \$6,788.22. Mr. Sanders recommended approval.

A motion to approve the Compactor Cylinders for Commercial Garbage Truck was made by Council Member Hodge and seconded by Council Member Stepp. Motion carried unanimously. Vote 5-0

J. Presentations

1. Citizen's Survey Results

Sam Grove, City Manager, spoke about the Health and Wellness and Parks & Recreation topics of the Citizen's Survey Results.

After announcements a motion to adjourn the meeting was made by Council Member Stepp and needing no second. Motion carried unanimously. Vote 5-0

Meeting Adjourned

/s/ _____
Matthew J. Santini
Mayor

ATTEST:

/s/ _____
Catheryn Hembree
Deputy City Clerk