



WORK SESSION OF THE
MAYOR AND COUNCIL
CITY OF DULUTH, GA
MARCH 23, 2009

PRESENT: Mayor Harris, Council members Bomar, Dugan, Hall, Mundrick and Whitlock
City Administrator, Department Directors, City Attorney

A work session was held prior to the regular scheduled meeting to allow the elected officials to discuss and ask questions of department directors regarding this evening's agenda items. No other items were discussed and no action was taken.

MINUTES OF THE
MAYOR AND COUNCIL
CITY OF DULUTH, GA
MARCH 23, 2009

Mayor Harris called the meeting to order at 7:00 p.m.

INVOCATION/PLEDGE: Councilmember Bomar

WELCOME RESIDENTS: Chattahoochee Cove/Riverbrooke

ANNOUNCEMENTS: Upcoming events and activities:

Sponsored by Duluth Parks & Recreation, Bunten Road Park: A.A.R.P. Defensive Driving, – Saturday, March 28th (9 a.m.); Senior Luncheon – Friday, March 27th; Easter Egg Hunt – Sunday, April 5th, and Day Camp Registration – starts Monday, April 13th.

I. CONSENT AGENDA

1. APPROVAL OF MARCH 9, 2009 MINUTES
2. ORDINANCE TO APPOINT DOWNTOWN DEVELOPMENT AUTHORITY MEMBER *[postponed]*
3. ORDINANCE TO APPOINT ETHICS BOARD MEMBER *[Exhibit "A"]*

Approval of this ordinance appoints Elise Whitworth to the Ethics Board upon the recommendation of Councilmember Bomar, term to expire 2011.

4. 2009 CITY ENGINEERS OF RECORD – ADDITION OF PEACHTREE ENVIRONMENTAL, INC. *[removed]*

5. ORDINANCE TO AMEND THE DULUTH CODE - SECTION 16-97 – ILLICIT DISCHARGE

[Exhibit "B"]

Approval of this ordinance amends the Duluth Code of Ordinances by deleting Section 16-97 "Variances" of Chapter 16 in its entirety. The purpose of this amendment is to insure that the City does not have the authority to provide relief from the applicable stormwater regulations and to insure compliance with the National Pollutant Discharge Elimination System (NPDES) permit process.

6. WAIVER REQUEST – SENIOR LOCK IN – BUNTEN ROAD PARK

The 8th annual Duluth High School Senior Lock In is scheduled for Tuesday, May 19, 2009. The event was coordinated eight years ago by the High School PTSA (Parent Teacher Student Association) to provide an evening of celebration for graduating high school seniors in a safe environment. The City co-sponsors the event by waiving the facility rental fees and approving the overnight event. The nightly entertainment and multitude of activities provides a safe alternative celebration to the high school seniors during a time of potential imminent danger to celebrating high school students.

Approval of this item authorizes staff to waive the \$1515.00 facility usage fee for the overnight rental of the Bunten Activity Building. Fees to be paid by the High School include: (3) facility attendants - \$575.00; Set up and Clean up - \$ 250.00; (2) police officers \$ TBA; Refundable deposit - \$250.00. A site liability insurance naming the City of Duluth as certificate holder in the amounts of 1 million per person and 2 million per occurrence must be submitted to the Parks and Recreation Department by May 9, 2009. All fees must be paid prior to the event.

A motion was made by Councilmember Hall, seconded by Councilmember Whitlock, to approve items 1, 3, 5 and 6 of the Consent Agenda.

Those voting for: Council members Bomar, Dugan, Hall, Mundrick and Whitlock
Motion carried.

II. CEREMONIAL MATTERS

1. OATHS OF OFFICE

Mayor Harris administered Oaths of Office to board members appointed at the March 9th and tonight's meeting.

2. PROCLAMATION – CIVITAN AWARENESS MONTH

Mayor Harris proclaimed April as "Civitan Awareness Month" in recognition of the accomplishments of this volunteer organization, and to promote interest and membership. She presented the proclamation to Melvin Buchanan, Civitan President.

III. PUBLIC HEARING

1. ORDINANCES OF ANNEXATION & REZONING - M-2 TO C-2 - CASE A#0157-08
LIAN CONG ZHANG TAX PARCELS 6-261-054 and 6-261-061

Mayor Harris opened the public hearing for Case A#0157-08 and asked Clifford Cross, Director of Planning, to come forward and present the request.

Mr. Cross stepped forward to consider ordinances of annexation and rezoning for Case A#0157-08 to annex approximately 1.2 acres of the property commonly known as 2933 Pleasant Hill Road (Parcel Numbers 6-261-054 and 6-261-061) into the City of Duluth. The applicant is requesting to rezone the property from M-2 (County) to C-2 (City) in order to facilitate the operation of retail sales businesses on site and facilitate future development.

Mr. Cross outlined the location of the site and noted that it currently houses both a wholesale distribution facility and a retail business. The applicant is not seeking to make any changes on the property other than allowing tenants to use the current space for retail sales. Specifically, the applicant would like to open the primary tenant (Homeware) to retail sales, maintain the one existing retail tenant (Soccer Locker) and open the existing vacant spaces up to retail tenants as well. Enabling retail sales on this site is the intended function of a rezoning to C-2.

Mr. Cross noted that this request is not in conflict with goals or policies as set forth in the 2030 plan, and he believes that the land use is consistent throughout the area. Over the past 20 years the area has surfaced as a commercial area. Staff is currently working on a "Unified Land Development Code," and this area would be classified as an interchange redevelopment area rather than an employment industrial character area.

Staff and the Planning Commission recommended approval with conditions; the first of which that the applicant must correct all present violations at the site. During the work session, Council mentioned that immediately upon annexation, the applicant would immediately receive violation notices that would be tracked. Mr. Cross recommended preventing issuance of a zoning certificate unless violations are cleared, as well as requiring submission of a parking plan prior to approval of any Business or Occupational license. Any exterior or site change or expansion would have to be approved through the Planning Department as well.

Councilmember Mundrick questioned the use of the accessory buildings. He also wanted to ensure that there would be no island created by this annexation.

Mr. Cross responded that they are individual storage sheds and with future development, those would be removed but remain on site until renovations take place.

City Attorney Steven Pereira confirmed that no island would be created.

Councilmember Bomar wanted to include language on the timing for cleanup as well as questioning potential usage of the property.

A representative for the owner came forward to say the plans are to attract similar business types as are currently located on the site. Homeware is undergoing renovation, and there are a lot of builders familiar with the site. He said there would be mixed use, some office, retail, and the back probably kept as warehouse. They planned on making elevation renovations to be more visually appealing.

Mr. Cross wanted to clarify with the applicant that they are aware that they cannot have office uses in C-2, and no 'flea market' types of environments would be permitted.

Councilmember Whitlock noted his surprise that retail and wholesale could be located together. He asked if only the Homeware will be grandfathered as wholesale location or if a condition should be added as part of the rezoning.

Mr. Cross responded that that the wholesale location would be “grandfathered” and the use could continue only if there is no vacancy of that use for over 90 days.

Looking at a conceptual, Councilmember Dugan asked about height restrictions and Mr. Cross said that 50’ is the maximum in C-2.

Mayor Harris called for comments from the public.

Maxine Garner of 3182 Crestview Circle said she appreciated including a timeframe for cleanup, but a large part of the buildings are “non-conforming” and she asked that a timeframe be considered for those structures under the possibility that the redevelopment doesn’t happen.

Billy Jones of 2794 Heath Lane said that these were conceptual drawings and gave no clear idea of the storefronts or how they will be divided.

Marcia Leroux of 3161 Barkeley Square Drive said that the issue of citations was brought up when they applied for rezoning to the County. Once property is annexed and rezoned, what method do we have to ensure compliance with cleanup conditions?

Mr. Cross said that the City’s code compliance and property maintenance violations will be aggressive in enforcement.

Councilmember Bomar commented that the City has an advantage in being smaller in size and having a diligent staff to work on the compliance issues. If it remains County property, there are no guarantees that it would be cleaned up and the City would have no leverage.

Mr. Cross noted that this is a “gateway” area for the City and we need to do everything we can to make sure it’s attractive.

Councilmember Mundrick questioned the parking plan and asked what the new process would be going forward for redevelopment.

Mr. Cross responded that the site would be reviewed for Land disturbance, detention, architectural review, landscape review, parking review, ADA compliance, and so forth. 1) Parking plan to show they can meet requirements of what is there. 2) For expansion, new plan would have to be submitted.

There being no further comments or questions, Mayor Harris closed the public hearing and called for a motion.

A motion was made by Councilmember Whitlock, seconded by Councilmember Hall, to postpone the ordinances of annexation and rezoning for Case A#0157-08 as presented.

Those voting for: Council members Bomar, Dugan, Hall, Mundrick and Whitlock
Motion carried.

Councilmember Whitlock noted he would like to see better clarification on proposed uses, timeline and progress on cleanup. He is in favor of the idea of more control on this property as it is in the Gateway area. Councilmember Mundrick would like to see a parking plan as part of the information provided.

IV. NEW BUSINESS

1. AWARD OF BID – STREET RESURFACING

Mayor Harris announced that Council would consider awarding the bid for Street Patching and Resurfacing for the contract period ending June 12, 2009. Approximately nine companies attended the mandatory pre-bid conference held on February 19th, but only four companies submitted bids, as follows:

Strickland and Sons -	\$135,499.89
Stewart Brothers -	\$188,889.80
Atlanta Paving -	\$164,713.00
C.W. Matthews -	\$198,303.31

Staff requested and received references and a list of similar projects completed from each company, en visited several sites to look at completed work and spoke with several of the references. Based on all information provided, Staff recommended accepting the bid of \$135,499.89 from Strickland and Sons. Sufficient funds are available within FY09 budget to cover this bid.

Councilmember Bomar said that the City would post the streets that will be included in this resurfacing project on the website.

A motion was made by Councilmember Mundrick, seconded by Councilmember Dugan, to approve awarding the Street Resurfacing contract to the low bidder of Strickland and Sons in the amount of \$135499.89, with a recommendation to put information on the website.

Those voting for: Council members Bomar, Dugan, Hall, Mundrick and Whitlock
Motion carried.

V. MATTERS FROM CITIZENS

1. LIBRARY CONCERNS

Ms. Elise Whitworth of 2900 Barnwood Crossing came forward to express her opinion on the potential site for the library. She presented a list of items for Council's consideration that she feels are critical points in making the decision on where the best location would be. (Attached, [Exhibit "C"].)

Ms. Joan Wilson of 2633 Peachtree Place came forward with a concerned regarding the integrity of downtown Duluth. She noted the new storefronts that are empty, and recommended using some spaces that we already have for a library.

Ms. Stacie Stamper of 2930 Fitzgerald Place asked how to go forth as a collective group representing opposition to consideration of allowing the city hall block to house the library site. Her opinion is that that the Hill Street site would be better to limit disruption to downtown.

Mr. Charles Summerour of 3642 Knox Drive noted that he had previously sent comments regarding the library site and his preference that it not be the old city hall block. He asked that the Council to consider having a public hearing because he feels it can become contentious, and said he would rather not see the city hall block project done "piecemeal."

Mr. Jack Brock of 3676 West Lawrenceville Street was concerned that the Downtown Development Authority's library site recommendation relies on the developer's wishes. Councilmember Mundrick made it clear that the developer is not the driving force behind the decision.

Ms. Sherri Ingbritsen came forward to say that her group is leasing the 2nd Stage space of the old city hall block, and suggested that Council see the improvements that have been made inside. She feels that keeping the historic area intact is very important.

2. OLDE TOWN NOISE CONCERNS

Laycie Ewing of 4115 Old Towne Way came forward with complaints regarding Global Destiny Church located on Peachtree Industrial Blvd. She claimed that they are producing excessive and extreme levels of noise at 5:00 a.m. for their daily call to prayer, six days a week, and several weeknights from 7pm til after midnight. She and her neighbors have called the police almost 30 times in less than a month. The police always respond and check with a meter reader, but the noise is always just under the decibel level. She submitted photos showing loudspeakers and amplifiers that are not supposed to be used within 1000 feet of a residential boundary. Chief Belcher confirmed that there have been many calls from the area that the officers have responded to, and that he would look into the speaker issue. He will also check to see if there are time restrictions associated with the allowable noise levels. Mr. Cross will check to see if there are conditions tied to the rezoning approvals of the property.

VI. MATTERS FROM COUNCIL/DEPT HEADS/CITY ATTORNEY

1. STAFF APPRECIATION – CAREER DAY AND GWINNETT CHAMBER

Councilmember Hall recognized Budget Finance Manager Ken Sakmar for participating in the "Career Day" at Duluth Middle School. He also mentioned that Officer Strickland, Samuel and Wood from the COPS program also participated. Chris McGahee and Elizabeth Rudin also helped network at the Gwinnett Chamber the following day.

VII. EXECUTIVE SESSION

It was necessary to call an executive session to discuss real estate, personnel, and pending/potential litigation.

A motion was made by Councilmember Bomar, seconded by Councilmember Hall, to adjourn to executive session at 8:15 p.m.

Those voting for: Council members Bomar, Dugan, Hall, Mundrick and Whitlock
Motion carried.

After the discussion, a motion was made by Councilmember Bomar, seconded by Councilmember Mundrick, to return to regular session at 8:50 p.m.

Those voting for: Council members Bomar, Dugan, Hall, Mundrick and Whitlock
Motion carried.

VIII. ADJOURNMENT

A motion was made by Councilmember Bomar, seconded by Councilmember Mundrick, to adjourn at 8:50 p.m.

All for. Motion carried unanimously.

Mayor Harris announced that there would be a work session after the meeting in the Main Street Conference Room to hear a Theft report from Detective Fran Foster and discuss the DDA recommendations for a potential library site.

POST MEETING WORK SESSION MAYOR AND COUNCIL MARCH 23, 2009

1. FRAUD INVESTIGATION

City Administrator Phil McLemore explained that Fran Foster was assigned to investigate because the City credit card numbers have been stolen several times. Detective Foster summarized the investigative activities that tracked back to a breach in security from a company in Atlanta that has led to multi-million dollar fraud and involved credit accounts for over 150 people. The Mayor and Council thanked her and Chief Belcher for the diligence of the Police Department.

2. LIBRARY SITE

Economic Development Manager Chris McGahee came forward and reported that the DDA met and recommended the library be located on the City Hall block, with a 3-2 vote. After discussion, he was asked his personal opinion on the best site and he said that although anywhere in the downtown would be wonderful, the Main Street location does more for both short and long term goals for the area, as it extends Main Street in a logical fashion, and cleans up eyesores in the area as well. Councilmember Mundrick asked to get the County Commission's opinion on site preference and a certain timeframe for a clear commitment.

3. DOWNTOWN DEVELOPMENT AUTHORITY APPOINTMENT

Council agreed to appoint Ron Osterloh as the Downtown Development Authority's recommendation to fill the vacancy left by Mark Gary.

4. RED CLAY UPDATE

Councilmember Bomar noted that a management agreement was close to being finalized and will be on the next agenda for approval. She also summarized other exciting potential uses for the building and the energy surrounding new ideas for entertainment.

5. JULY 3RD EVENT FOR 2009

Recommendations were discussed for how to reduce expenses while keeping the event as strong as possible, by cutting the concert portion, accepting donations for parking, etc. Since so many people are cutting fireworks this year, potentially keeping a picnic with patriotic music by a DJ instead of a band might work if the advertising was done correctly.

Approved this _____ day of _____, 2009.

Mayor Nancy Harris

ATTEST:

City Clerk Teresa S. Lynn