

Duluth



**MINUTES OF THE
MAYOR AND COUNCIL
CITY OF DULUTH, GA
JUNE 10, 2019**

PRESENT: Mayor Harris, Council members Bomar (via conference call), Carden, Jones, Kelkenberg and Whitlock, City Manager, Department Directors, City Attorney

A work session was held prior to the regular scheduled meeting to allow the elected officials to discuss this evening's agenda items.

Mayor Harris called the meeting to order at 6:30 p.m., and called for a motion to enter into an Executive Session for the purpose to discuss Real Estate, Pending/Potential Litigation, Personnel.

I. EXECUTIVE SESSION

A motion was made by Councilmember Whitlock, seconded by Councilmember Kelkenberg, to adjourn to executive session at 6:30 p.m.

Those voting for: Council members Bomar (via conference call), Carden, Jones, Kelkenberg and Whitlock

Motion carried.

After the discussion, a motion was made by Councilmember Whitlock, seconded by Councilmember Jones, to return to regular session at 7:00 p.m.

Those voting for: Council members Bomar, Carden, Jones, Kelkenberg and Whitlock
Motion carried.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE: Scout Troops members from 648, 420, 1534, 419 and 650 – (Communication Merit Badge)

II. ANNOUNCEMENTS

1. AGENDA CHANGES
2. UPCOMING EVENTS - www.duluthga.net/events for more information

"Fridays-N-Duluth" - May 3-August 23, 6-9pm & 6-10pm. Duluth Town Green & Parsons Alley

"Block Party on Main" - Friday, June 28 featuring Fool House (your favorite 90's tunes), 8pm-10pm. Premium tables available, Duluth Town Green

"Duluth Celebrates America" - Wednesday, July 3, 5:30pm-10pm.

"Flicks on the Bricks" - Friday, July 5 featuring *Aquaman*, Dusk, Duluth Town Green

"Whatever Floats Your Boat" - Saturday, July 20, Rogers Bridge Park

"Bubblepalooza" - Wednesday, July 24, 11am-1pm, Duluth Town Green

"Block Party on Main" - Friday, July 26 featuring *Fly Betty Band*, 8pm-10pm. Premium tables are available, Duluth Town Green

3. CHANGE OF COUNCIL MEETING TIME

Mayor Harris announced a time change for the regular Council meetings. Starting July 8, meetings will start at 6:00 pm; pre-meeting work sessions will begin at 5:30 pm.

4. RECOGNITION – MAJOR MARK HUNTER

Special recognition to Major Mark Hunter for his 30 years of service to the Duluth Police Department.

I. CONSENT AGENDA

1. APPROVAL OF MAY 13TH MINUTES

2. AUTHORIZATION FOR INTERGOVERNMENTAL AGREEMENT – ELECTION EQUIPMENT {A}

Approval of this item authorizes the Mayor to execute the Intergovernmental Agreement between the City of Duluth and Gwinnett County Board of Voter Registrations and Elections for use of Election Equipment for the 2019 Municipal Election.

3. ORDINANCE TO AMEND THE FY19 BUDGET – \$13, 125 – POLICE AUCTION {B}

Approval of this item authorizes an ordinance (BA-FY19-32) to amend the FY19 budget. Recently, a police vehicle was sold at auction. After commission and fees, the City received \$13,125. In order to continue maintaining a vehicle fleet that is low maintenance and dependable, the Police Department is requesting the \$13,125 be added to the Police Vehicles - Consolidated Vehicle Maintenance - Vehicles line item.

4. ACCEPTANCE OF DONATIONS – ORDINANCE TO AMEND FY19 – COMMUNITY CLEANUP {C}

The City held an annual Community Clean-Up Day for Duluth residents on May 18. In support of this event, staff received donations of \$300 from Terracon and \$250 from Pond & Co. to help offset the associated cost. Approval of this item authorizes a budget amendment (BA-FY19-33) to add \$550 to the Planning & Development - Planning & Development Administration - Community Betterment Program line item.

5. ORDINANCE TO AMEND FY19 BUDGET - \$40,000 – ENGINEERING SERVICES {D}

The City's in-house engineering services for capital projects are performed by an on-staff outside consultant. The consultant's time is tracked by project and the cost is allocated to the individual capital project, as work is performed, based on approved invoices. Prior approved SPLOST contingency funds for Parks & Recreation capital projects have been exhausted and additional funds are needed. Approval of this item authorizes a budget amendment (BA-FY19-34) to add \$40,000 in unallocated 2014 SPLOST Recreational Facilities funds to the 2014 SPLOST - Professional Services line item. These funds will be allocated to individual projects as invoices are approved.

A motion was made by Councilmember Jones, seconded by Councilmember Carden, to approve the Consent Agenda as presented.

***Those voting for: Council members Carden, Jones, Kelkenberg and Whitlock
Motion carried.***

II. PUBLIC HEARINGS

1. ORDINANCE OF SPECIAL USE PERMIT – CASE# SU2019-002

{E}

Mayor Harris opened the public hearing to consider an ordinance of Special Use for Case #SU2019-002 and called forward Planning Director Bill Aiken to present.

Mr. Aiken came forward to summarize the request (SU2019-002) from TG Rogers, LLC for Special Use approval to operate a restaurant with drive-through window(s) located at northeast corner of the Rogers Bridge Road and Buford Highway intersection (tax parcels R7201 002 and R7201 385). The property is currently zoned Duluth HC-R (Highway Commercial Retail District) and will not change.

Mr. Aiken described the location and surrounding uses. The subject site consists of two parcels totaling approximately 5.07 acres and was originally developed in 2007 when a site plan was approved and infrastructure was completed to develop a single story, 31,000 square foot retail building and outparcel. The project never moved forward due to the recession.

There are three points of ingress/egress, two from Buford Highway and one from Rogers Bridge. Current zoning is HC-R, which parallels Buford Highway on both sides of the road from Davenport Road to the subject property on the northern end of the City with two exceptions (District at Duluth zoned PUD and Woody's Nursery zoned C-1). This classification is intended to serve a variety of business activities that are generally located on highway corridors.

Mr. Aiken explained that the proposed restaurant is approximately 2,800 square feet as part of a larger development, which is intended to also include two retail buildings and a carwash as shown in the Master Concept Plan. In 2018, the City of Duluth amended the Unified Development Code (UDC) to require Special Use approval for restaurants with drive-thru in the HC-R zoning district. Prior to that amendment, this use was allowed by right. The intent of the text amendment was to ensure certain types of uses would receive an additional layer of review prior to approval. The uses that changed from allowed uses to special uses also included carwashes and automotive related retail uses. These types of businesses may be compatible in retail character areas located near prominent intersections. However, in a downtown character area where walkability and pedestrian-scale development is important, they may not be compatible. The retail buildings are allowed by right and therefore do not need entitlements from City Council. The carwash does need approval and is also requesting Special Use approval (SU2019-003).

Mr. Aiken noted that the character area and surrounding land use play a large role in conjunction with zoning when considering these requests. The main components of the 2040 plan (FORWARDuluth) identifies the Character Area of this property as Buford Highway North Corridor, which should be developed in a typical suburban pattern and gradually leads to more dense development. He described the Master Concept Plan building layout with ingress and egress options and the current drive- thru businesses on the other corners of this intersection.

Mr. Aiken referenced the zoning standards and reported that the Planning Commission recommended approval of Case SU2019-002 at the May 6, 2019 hearing. Staff also recommends approval with conditions as modified as follows:

Condition 1 was omitted due to the flexibility clause in the UDC regarding rezoning. The condition stated that the site plan shall match what was originally submitted. The flexibility clause states that minor changes such as shifting parking or decreasing the building may be handled administratively without going before Council, however, major changes such as increasing the size of a building or changing use would need to come before Council.

Mayor Harris asked if there is a condition regarding landscaping. Staff reported that there is a condition to increase landscaping in order to screen the drive-thru from the right of way.

Mayor Harris called for discussion from Council.

Councilmember Whitlock questioned the landscaping and if there was a requirement for a certain number of trees. Mr. Aiken responded that there is a required tree density of 20 density units per acre, which can be accomplished by planting two to three large trees or by planting several smaller trees with a two-inch caliper at time of planting.

Councilmember Carden asked if there would be sidewalk improvements. Mr. Aiken replied that there would be sidewalks fully fronting Buford Highway and Rogers Bridge however there will not be a sidewalk added for access on both sides of the bridge. Councilmember Carden expressed his concern regarding safety with only one side of the bridge having a sidewalk.

Mayor Harris called forward the applicant.

Shane Lanthem, attorney representing the applicant came forward and reported that the development plan is compatible with the UDC, appropriate use of the land, and he felt the uses would serve the community well. Mr. Lanthem respectfully requested approval of the plan with conditions as presented.

Councilmember Carden asked about the grade of the land being sight prohibited. Mr. Lanthem stated that additional landscaping and being just below grade would allow for sufficient sightlines.

Councilmember Whitlock asked about the placement of signage. Mr. Lanthem stated that no signage would be in front of the right-of-way; it would be located on Buford Highway and Rogers Bridge. Councilmember Whitlock also requested the planting of larger trees and that the dumpster location be moved. Staff stated that the UDC requires the dumpster to be screened on three sides along with a locking front and added that there is an opportunity for additional landscaping in the area to block sight lines of the dumpster from the road.

Mayor Harris called for questions/comments from the public.

Ms. McRath of 3516 Ashby Pond Lane, Cresswell Subdivision came forward to voice opposition to the car wash and fast food restaurant due to accidents at the intersection of Buford Highway, Old Peachtree Road, and Rogers Bridge. The increase in traffic and the entering and exiting of the area may increase the opportunity for additional accidents. Ms. McGrath stated that she was also opposed to the car wash and Arby's due to the proximity of other such businesses in the area and the amount of vacant retail spaces in the area. Lastly, Ms. McGrath spoke of her concerns about the difficulty of residents entering and exiting the Cresswell Subdivision.

Laura Balatic of 3251 Heritage Walk Lane came forward to speak in opposition to the development. Her concerns were about vacant buildings in the area and why the City is not trying to get these filled before building new. In addition, Ms. Balatic spoke of her concerns with increased traffic.

Councilmember Whitlock asked if a traffic study is required for this development. Staff reported that a traffic study was not required for this particular use at that location. However, the City would meet with Gwinnett County and GA DOT if requested by Council.

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 Jones, to approve ordinance O2019-13 approving Case #SUP2019-002 as presented.

**Those voting for: Council members Carden, Jones, Kelkenberg and Whitlock
Motion carried.**

2. ORDINANCE OF SPECIAL USE PERMIT – CASE# SU2019-003

{F}

Mayor Harris opened the public hearing to consider an Ordinance of Special Use permit for Case #SU2019-003 and called forward Planning Director Bill Aiken to present.

Mr. Aiken came forward to summarize the request (SU2019-003) from TG Rogers, LLC for Special Use approval to operate a car wash on a +/- 5.07 acre property located at northeast corner of the Rogers Bridge Road and Buford Highway intersection, Duluth, Georgia 30096 (tax parcels R7201 002 & R7201 385) for an automated carwash. The property is currently zoned Duluth HC-R (Highway Commercial Retail District) and in the Buford Highway North Corridor.

Mr. Aiken reported that the proposed structure is a 3,600 square foot building with three lanes. He showed the Master Concept Plan, proposed elevations and preferred canopy design (for future, if the tenant desires to add one). The elevations call for a minimum 25% percent of glass, with brick or stacked stone to complement. Staff looked at nearby intersections and showed where existing automobile related uses are currently in operation. For this case, there is a DOT review required to prevent or prohibit any stacking of cars, and additional landscaping is also required.

Planning Commission recommended approval of Case SU2019-003 at the May 6, 2019 hearing. Staff also recommended approval with conditions.

Mayor Harris called for discussion from Council.

Councilmember Jones asked about auto usage near the property. Staff reported that the southern area of Buford Highway is zoned for mechanical usages and the northern is not.

Councilmember Whitlock asked if the car wash failed, could another applicant could use the parcel for mechanical use. Mr. Aiken replied that other automotive usage or overnight storage would not be allowed. Councilmember Whitlock also asked about screening from Buford Highway and Mr. Aiken said the applicant has agreed to a knee wall and landscaping to buffer the view.

Mayor called the applicant forward.

Shane Lanthem, attorney representing the applicant came forward. Mr. Lanthem stated that the use is appropriate and compatible with existing businesses along Buford Highway. Mr. Lanthem discussed how the prior land use for a 30,000 square foot retail establishment is not significantly different regarding traffic patterns from the current development plan.

Councilmember Carden expressed his concern regarding the traffic patterns of two business that will have significant entering and exiting of traffic. Mr. Lanthem stated that the HC-R zoning includes fast food restaurants and car washes and that the current development plan is not a significant departure from the prior plan.

Councilmember Kelkenberg expressed his concern about using statistics from 2003 and 2007 and that traffic has increased significantly since that time.

Councilmember Carden asked, if the car wash is not approved is there a plan to replace it with something else. Mr. Lanthem stated that he was only involved in this land usage requirements and not familiar with any other plans.

Mayor Harris inquired about the timeline and use of middle buildings. Mr. Lanthem stated that the site would be developed and constructed together.

Mayor Harris called for questions/comments from the public.

Verdi Avila, 3520 Briarstone in Duluth discussed the issue of traffic in and out of Creswell. He also expressed concern regarding the entering and exiting the car wash and of the aesthetics of the property.

Ms. McGrath of 3516 Ashby Pond Lane, Cresswell Subdivision came forward in opposition to the car wash. She asked if the owner would be the same as the restaurant, and requested a traffic study. Ms. McGrath stated that the noise level of the car wash could potentially affect property values and asked that the car wash be denied.

Mayor called for additional discussion from Council.

Councilmember Whitlock discussed appropriate use. He said that the City wants to draw people to the intersection and to get the vacant buildings used as well. Traffic patterns will not be constant but it will have peak times. He also asked if there could be just one entrance for this area. Mr. Aiken responded that it would be GA DOT decision and that driveways add value to the businesses. Mr. Lanthem stated that he supports two driveways as it provides better circulation for the parcel, and all the curb cuts are already there. Part of the recommendation for the car wash is that DOT reviews the plan, and he could provide a site circulation traffic plan as well.

Councilmember Kelkenberg asked about hours of operation for the car wash. Mr. Lanthem replied that summer hours are typically 8am-8pm and non-summer hours are 9am-6pm.

Councilmember Whitlock requested that the dumpster for the property be moved or cleaned up. Staff stated that they would work with the developer on this issue.

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

A motion was made by Council member Kelkenberg, seconded by Councilmember Whitlock, to approve ordinance O2019-14 approving Case #SUP2019-003 as presented.

Those voting for: Council members Carden, and Whitlock

Those voting against: Council members Jones and Kelkenberg

Mayor Harris voted for approval.

Motion carried.

3. ORDINANCE TO ADOPT THE FY2020 BUDGET

{G}

Mayor Harris opened the public hearing to adopt the FY2020 budget. Per the State Code of Georgia, the Mayor and Council to hold public hearings to receive public comment on the proposed FY 2020 Annual Operating and Capital Projects Budget. A public hearing was previously held on May 13 to receive public comments. Prior to the public hearings, staff and council reviewed the proposed FY 2020 budget in a budget workshop held on May 6 that was duly noticed and open to the public.

City Manager James Riker came forward to present the ordinance for adoption of the Fiscal Year 2020 City of Duluth Budget. He presented the strategic vision statements and summarized the operating budget and capital budget totals with comparisons from previous years. He highlighted revenues, expenditures, and the notable changes for FY2020. Important to note was the continued decrease in reliance on prior year reserves to balance the budget.

Property tax as primary source of revenue at 40%. As the City is a "service" organization, the main expenditures are salaries, benefits etc. Service Delivery strategy negotiations start in July and run through October, and therefore are not included in the figures. Other notable expenditures include a 3% merit increase for employees and increased costs associated with health care insurance. Mr. Riker noted that the solid waste financial model has recently changed and the City has absorbed some of those costs. Building maintenance costs have been split out among departments, and several new positions were added or converted from part to full-time. Tax Allocation District and Stormwater fees are other factors.

Mr. Riker concluded by saying that staff will continue to monitor and update facility needs, and that debt retirement strategies will be very important going forward.

Mayor Harris called for discussion from Council. Being none, the Mayor called for questions/comments from the public. There being no comments or questions, Mayor Harris closed the public hearing and called for a motion.

A motion was made by Councilmember Kelkenberg, seconded by Councilmember Carden, to approve the ordinance to adopt the Fiscal Year 2020 budget as presented.

Those voting for: Council members Carden, Jones, Kelkenberg and Whitlock
Motion carried.

III. NEW BUSINESS

1. AWARD OF CONTRACT – SCHOOL ZONE PHOTO ENFORCEMENT - REDSPEED GEORGIA LLC {H}

As discussed at the April 22 work session, the Mayor and Council considered awarding a contract for a photo enforcement program of speed violations for certain school zones within the City of Duluth. Captain Chuck Wilson came forward to present.

Staff recently obtained some of the necessary approvals from Georgia state DOT, Gwinnett County DOT and Gwinnett County Public Schools and proposes to utilize a public private partnership with Redspeed Georgia, LLC for enactment of the program.

Cpt. Wilson said that the City will incur no installation costs. He discussed the contract termination options, analytics and enforcement parameters (which days, hours and number of mph over posted limits), and location of equipment. Warnings would be issued for the first 30 school days. Beyond that, the first violation would be \$75, second would be \$150. He said that the cameras will also be ALPR readers, and also highlighted the public education/outreach avenues and materials.

Councilmember Jones asked how the violators would receive a warning during the 30-day rollout phase. Cpt. Wilson said they would be mailed a warning with a photo of the violation.

Councilmember Whitlock questioned how many violators there were in the traffic study that sped 15 mph over the speed limit and wanted to know if the cameras are set up independently or tied into the school flashing lights. . Cpt. Wilson said there were thousands; Duluth Middle School and Mason Elementary had the highest number of speeders. The cameras are independent and they will run all day. The police department has authority to remove batches of tickets prior to them being mailed if the cameras were issuing tickets when school is not in session. Councilmember Whitlock as if there is a quality control mechanism to change processes if mistakes are being made. The representative from RedSpeed Georgia stated the police department would have final authorization of the parameters set for the cameras.

Mayor Harris asked about operating hours of the cameras. Staff reported that it is different depending on the location of the school (state routes vs county routes).

A motion was made by Councilmember Jones, seconded by Councilmember Whitlock, to approve the City approved contract award with RedSpeed Georgia, LLC relating to photo enforcement of school zone speed limits as presented.

Those voting for: Council members Carden, Jones, and Whitlock

Those voting against: Councilmember Kelkenberg

Motion carried.

2. AWARD OF BID – ANNUAL LANDSCAPE MAINTENANCE CONTRACT

{1}

Council considered an award of bid for the annual landscape maintenance contract. Staff issued the Request for Proposals in May; five bids were received on June 4, 2019. The responses are as follows:

	Bid
Imagescapes, Inc.	\$ 142,716.50
Russell Landscape	\$ 134,260.00
ACS Landscape Management	\$ 124,830.00
Yellowstone Landscape	\$ 120,000.00
Select Landscapes, LLC	\$ 69,907.00

All bid packages were checked for completeness and compliance with requirements of the Request for Proposal (RFP), which evaluated cost (70%) and references (30%). After reviewing the criteria, staff recommends awarding the contract to Select Landscaping, in the annual amount of \$69,907.

A motion was made by Councilmember Kelkenberg, seconded by Councilmember Jones, to approve the contract award of annual landscape maintenance to Select Landscapes for \$ 69,907 and further authorize the City Attorney to prepare a contract for said service.

Those voting for: Council members Carden, Jones, Kelkenberg and Whitlock

Motion carried.

IV. MATTERS FROM CITY MANAGER

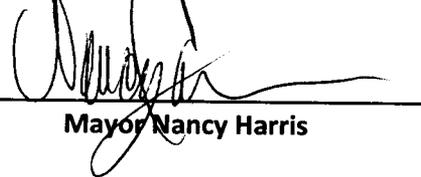
GWMA was held at the police training center in Lawrenceville. Acknowledgement was made to all law enforcements/first responders.

V. ADJOURNMENT

A motion was made by Councilmember Whitlock, seconded by Councilmember Carden, to adjourn at 8:55 pm.

**Those voting for: Council members Carden, Jones, Kelkenberg and Whitlock
Motion carried.**

Approved this 8 day of July, 2019.



Mayor Nancy Harris

ATTEST:



City Clerk Teresa S. Lynn