



**DRAFT MINUTES OF THE  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
JULY 8, 2019**

**PRESENT: Mayor Harris, Councilmembers Bomar, 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 official to discuss this evening's agenda items.

**Mayor Harris called the meeting to order at 6:00pm 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 Jones, seconded by Councilmember Bomar to adjourn to executive session at 5:35pm.**

**Those voting for: Councilmembers Bomar, Carden, Jones, Kelkenberg and Whitlock**

**Motion carried.**

**After the discussion, a motion was made by Councilmember Kelkenberg, seconded by Councilmember Carden to return to regular session at 5:55pm.**

**Those voting for: Councilmembers Bomar, Carden, Jones, Kelkenberg and Whitlock**

**Motion carried.**

**PLEDGE OF ALLEGIANCE**

**II. ANNOUNCEMENTS**

1. NO AGENDA CHANGES
2. UPCOMING EVENTS

"Thursday Live" - live music in Parsons Alley and on Main Street every Thursday from 6-9pm, June-August.

"Fridays-N-Duluth" - presents Food Truck Friday, July 12

"Whatever Floats Your Boat" - July 20<sup>th</sup>

"Back to School Bubblepalooza" - July 24<sup>th</sup>

"Fridays-N-Duluth presents Block Party on Main" - featuring Glow Night and Fly Betty Band, July 26<sup>th</sup>

"Summer Stage Concert" - featuring The Petty Breakers, July 27<sup>th</sup>

Councilmember Kelkenberg asked if Aquaman had been rescheduled. Staff reported that a date has not been set.

### III. CEREMONIAL MATTER

#### 1. RECOGNITION – AMAZING ENTREPRENEUR

Councilmember Bomar presented special recognition to Jaime Stepic, owner of *Spool School* for winning the 8th annual “Amazing Entrepreneur Contest” at the 2019 Demo Day event held at the Gwinnett Chamber of Commerce. Spool School, located in downtown Duluth, is an imaginative sewing business featuring sewing classes, camps, and parties sharing the art of sewing with all ages. The annual contest encourages and showcases the creation of startups and viable enterprises while engaging the region’s support services. It requires participants to submit a business plan summary for judging, with finalists earning the opportunity to present before a panel of leading business professionals.

### IV. CONSENT AGENDA

#### 1. APPROVAL OF JUNE 10<sup>TH</sup> MINUTES

#### 2. RESOLUTION – CALL FOR 2019 MUNICIPAL ELECTION {A}

Approval of this item approves a resolution (R-2019-11) setting qualifying times, dates and other matters relevant for the November 5, 2019 City of Duluth General Election for the purpose to elect a Mayor currently held by Nancy Harris and two members of Council. Post 4 currently held by Kelvin J. "Kelly" Kelkenberg and Post 5 currently held by Greg Whitlock.

#### 3. PARSONS ALLEY PATIO LEASE AGREEMENTS {B}

Patio spaces have been surveyed and marked for each restaurant site in the Parsons Alley project: Falling Rabbit, Maple Street, Noona, Simply Done, Nacho Daddy, Good Word, Local on North and Sweet Octopus. Assignable lease agreements have been created for each individual space. Leases have updated and include price escalation clauses. Approval of this item authorizes the City Manager to execute eight (8) lease agreements for Parsons Alley.

#### 4. ORDINANCE TO AMEND FY19 BUDGET - \$252,997.66 – LMIG GRANT FUNDS {C}

Approval of this item accepts \$252,997.66 as the City's share of the FY 2019 LMIG (Local Maintenance & Improvement Grant) grant from the Georgia Department of Transportation (GDOT). LMIG grant funds are generated from the state motor fuel tax which is set each year by the Georgia General Assembly. The grant is for road improvement projects such as street resurfacing and requires 30% matching funds of \$75,899.30, which will come from 2017 SPLOST Transportation funds. A project list was submitted and approved by GDOT. Approval of this item also approves an ordinance to amend the budget (BA-FY19-35) to add the grant funds to the Transportation/Infrastructure Improvements capital project (ST-32).

#### 5. ORDINANCE TO AMEND FY19 BUDGET - \$157,000 – POLICE CAMERAS/RADIOS {D}

Police department staff is currently working to install LPR (License Plate Recognition) cameras throughout the City as part of Phase I of the Citywide camera program. In order to closeout the equipment purchases for the current year, staff is requesting \$9,428.48 in 2017 SPLOST funds. The police department has also received a quote from Motorola Solutions for \$140,571.52 for the purchase of new portable radios for our officers. This purchase will also be funded with 2017 SPLOST funds. Approval of this item (BA-FY19-36) adds \$150,000 in unallocated 2017 SPLOST Public Safety funds to the Police Capital Projects - Police - Police Equipment line item.

6. ORDINANCE TO AMEND FY19 BUDGET - \$1,840 – SR 120 PROJECT EXPENDITURE {E}

Recently, staff received an invoice from Norfolk Southern in the amount of \$1,839.38 for flagging services in June 2016 in connection with the realignment of State Route 120. Previously, staff had closed the realignment portion of the State Route 120 capital project, assuming all expenditures had been paid. In order to pay the Norfolk Southern invoice, staff is requesting the capital project be re-opened and funds be added to the projects. Approval of this item (BA-FY19-37) adds \$1,840 in unallocated 2017 SPLOST Transportation funds to the SR 120 Realignment - Paved Streets - Infrastructure line item.

7. ORDINANCE TO AMEND FY20 BUDGET – 14,052 – CITY HALL/FESTIVAL CENTER WORK {F}

Mayor and Council to consider approval of a budget amendment to carry-forward \$14,052 in FY 2019 budgeted funds to the FY 2020 fiscal year for purchase obligations committed to in the current year, but due to the technical nature of the purchases, can not be invoiced in the current year. Staff is requesting funds be carried-forward for the following purchases:

1. City Clerk's Department - replacement of the City Hall Main Street doors
2. Public Information/Marketing Department - key-card access system for the Festival Center

Approval of this item (BA-FY20-001) adds general funds to the following FY 2020 line items:

1. \$10,052 to City Clerk - Custodial/Building Maint. - Building Maintenance
2. \$4,000 to Public Information/Marketing - Festival Center - Small Equipment

**A motion was made by Councilmember Bomar, seconded by Councilmember Kelkenberg, to approve the Consent Agenda as presented.**

**Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg and Whitlock**  
**Motion carried.**

**V. PUBLIC HEARING**

1. ORDINANCE OF MODIFIED ZONING – CENTURY COMMUNITIES Z2019-002 {G}

Mayor Harris opened the public hearing to consider a request (Z2019-002) and called forward Planning Director Bill Aiken to present.

Mr. Aiken came forward to summarize the request (Z2019-002) by Century Communities of Georgia, LLC to modify the conditions of zoning approval on a +/- 8.87 acre property located at 3346 Buford Highway in Duluth, Georgia 30096 (tax parcel R6292 004). Century Communities of Georgia, LLC are the developers, builder, and owner of Sherwood Crossing. The property is currently zoned Duluth PUD (Planned Unit Development District) and will not change. The applicant has proposed to modify conditions of approval from Ordinance Z2017-004 in order to allow for the streets, utilities and infrastructures within the neighborhood to be private and for the lot lines to be zero lot lines for the townhomes.

Mr. Aiken described the location and surrounding uses and explained that the first request is in regards to zero lot lines. The applicant originally wanted the townhomes to have private front and backyards however after researching townhomes sites in the area decided that zero lot lines are preferred in the area. This also then gives the HOA the responsibility of the exterior maintenance and landscaping. The original condition required 2,000 for front loaded and 1,500 for the rear loaded. The applicant is requesting that this condition be struck and zero lot lines be applied similar to Parc at Parsons.

The second request is to have the public streets become private. By using zoning from last year, the future land use map of the comprehensive plan and the Buford Highway study the applicant has done a good job of incorporating what the City had envisioned for the property and increasing connectivity to future development in the area. As the applicant has set up the HOA, it was determined from a long term maintenance standpoint that it would be better to have all the streets in the development private instead of public since the alley ways are private. The applicant will provide the City an access easement for future connectivity similar to the Cresswell subdivision. Staff has included a condition that owner and any future owners acknowledge that the final plot has private streets and that the City of Duluth has no responsibility for maintenance of those private streets.

The Planning Commission recommended approval of Case Z2019-002 at the June 17, 2019 hearing and staff recommends approval of Case Z2019-002 with conditions.

Mayor Harris called for discussion from Council.

Councilmember Kelkenberg asked how the City would handle traffic with future tie-in roads from Buford Highway and Davenport. Mr. Aiken replied that the applicant would incorporate traffic calming measures to discourage cut through traffic and speeding.

Councilmember Whitlock asked about the benefit for adjacent properties to tie into the development. Mr. Aiken said that some of the surrounding property would be suitable for residential use and tie-ins would be beneficial, such as at Cresswell I and 2. This property is not for sale currently, however, in the future if there is a rezoning request the City could include a condition to tie-in. If there is not a rezoning request the City cannot require the owner to tie-in.

Councilmember Bomar expressed concern regarding older developments with private streets that were left unmaintained. She asked what staff is doing to ensure that this does not happen in the Sherwood Crossing development. The applicant has stated that a portion of money from the closing fees will be designated for road maintenance. There will also be an acknowledgement in the deeds that state that the streets are private and the maintenance is the responsibility of the HOA.

Councilmember Carden asked what the options would be if Council denied the request for the streets to be private. Staff reported that the applicant would have to revise the covenants and find an option that is fair and equitable for homeowners.

Mayor Harris called the applicant forward.

Jeffery Reed of 3091 Governor's Lake Parkway, Norcross, representing Century Communities came forward and reported that zero lot lines and private streets are better for long term maintenance and landscaping. There will be a Declaration designating that the HOA is responsible for the cost of the maintenance and that they budget accordingly. The HOA will set up a capital reserve fund only to be used for aforementioned maintenance.

Mayor Harris asked why they changed from public to private streets. Mr. Reed explained that it was an oversight on his part and they need to have the request approved prior to selling the first home.

Mayor Harris called for any questions from Council.

Councilmember Kelkenberg stated that HOA's do not always plan accordingly and wants to know what safeguards would be in place. Mr. Reed agreed that mismanagement of HOA's in the future could be an issue,

however, Century Communities is dedicated to ensuring the proper maintenance as stated in the Declaration as a recorded document. He stated that he is unable to give assurances once the HOA undergoes future changes.

Councilmember Carden stated his concern about the private streets and the future weakening of the HOA. He asked about another option if Council denies the private streets. Mr. Reed replied that they would still move forward and that HOA fees would not be a universal amount based on unit selection. Councilmember Carden asked if the commercial property on Buford Highway would be contributing to street maintenance. Mr. Reed said that Century Communities does not own that property.

Councilmember Bomar stated that Town Park Place has a HOA dues structure based on property type. Mr. Reed stated it could be managed and that there are two different product types with rear entry and front entry. In his experience, it is easier to run a HOA that is "all or nothing" and maintain everything.

Councilmember Bomar asked how code enforcement could be utilized to ensure that the roads are maintained. Mr. Aiken responded that Condition 28 is enforceable along with the condition that the final plat having the note, and the purchaser's acknowledgement. There was additional discussion regarding communities that are similar that came to the City and asked for assistance repairing the roadways.

Councilmember Whitlock stated that people are looking for gated townhome communities. Mr. Reed informed the Council that this is not a gated community.

Mr. Riker clarified that Woodhaven had public roads with public owned driveways. It was later changed so that the public driveways became private. The front half of subdivision does have public driveways.

Mr. Aiken noted that Amendment 1 and 6 concern the zero lot lines, and the other proposed amendments reference the streets.

Mayor Harris called for questions/comments from the public.

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

Councilmember Bomar is pleased that there are multi-layer provisions in order to prevent poor maintenance of the property and streets.

**A motion was made by Councilmember Kelkenberg, seconded by Councilmember Jones, to approve the ordinance to modify zoning conditions for Case Z2019-002 as presented.**

**Those voting for: Councilmembers Bomar, Jones, Kelkenberg and Whitlock**

**Those voting against: Councilmember Carden**

**Motion carried.**

## **VI. NEW BUSINESS**

### **1. AUTHORIZATION FOR AGREEMENT – PROPERTY PURCHASE – DULUTH MINI WAREHOUSE {H,I}**

Council considered the purchase option agreement for acquisition of property at 3279 Buford Highway. Mr. Riker stated that the City has an opportunity to purchase 0.964 acre portion of the property and the owner would retain the remaining .19 acres. The acquisition would allow the City to complete the Davenport Road extension from South on Main to Buford Highway for future development of a signal. Four hundred thousand

dollars would be due immediately with a total purchase price \$1.4 million and a final installment over the next four years. The owner will maintain the property.

Mayor Harris asked if the owner would continue to operate the property. Mr. Riker stated that the owner would continue with the current tenants. There is a provision in the agreement that if the City chooses to purchase the property earlier, the City would compensate the owner appropriately.

**A motion was made by Councilmember Kelkenberg, seconded by Bomar, to approve the option purchase agreement for the purchase of tax parcel R6293 004 consisting of approximately .964 acres and located on Old Peachtree Rd with a general street address of 3279 Buford Highway within the incorporated limits of the City of Duluth from Duluth Mini Warehouse, LLC for an option amount of \$400,000 and a total purchase amount of \$1,400,000 in accordance with the option agreement.**

**Councilmembers Kelkenberg and Bomar further moved to approve the ordinance to amend the FY20 budget (Budget Amendment BA-FY20-02) to add \$400,000 in General Fund prior year reserve to Davenport Road Extension (CD-55) Land line item.**

**Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg and Whitlock  
Motion carried.**

## **VII. MATTERS FROM DEPT HEADS/CITY ATTORNEY**

### **1. STORMWATER UTILITY FEE**

Planning Director Bill Aiken came forward to present. As presented in detail at the April 22, 2019 work session, the City's Stormwater Utility funds are used to manage the Stormwater Management Program (SWMP). The existing system has significant deficiencies that are typical with aging infrastructure; therefore, the City needs to develop a sustainable funding model that will allow the City to "catch up" and make strategic, timely, and cost conscious decisions about repairs to the City's Stormwater infrastructure.

The City of Duluth SWMP operational areas include:

1. drainage system operations and maintenance (O&M);
2. development regulation;
3. regulatory compliance;
4. drainage capital improvement program (CIP); and
5. program coordination/administration.

Mr. Aiken presented recently completed projects in Centurion Hills, Norman Downs, Peachtree Walk, Main Street and South Street, Windsor Gate, and the Public Safety pond. Councilmember Kelkenberg asked if the fence was repaired. Staff will check on this item.

Mr. Aiken reported on the City's obligations and liabilities. The City's Stormwater inventory has 4,278 structures (inlets, junction boxes, catch basins) and 223,503 linear feet of underground pipe (42 miles). Sixty five percent of the piping is corrugated metal pipe that becomes corroded. A "project priority" list has been developed over the last few years with priority given to those that present a safety concern. In 2013, the City completed 15 projects for 1.8 million. From FY14-19, 140 projects were completed for \$2.3 million. The City currently has 107 projects on the priority list with an anticipated total price tag of \$4.4 million. The expensive projects of over \$100,000 sit on the list due to lack of funding.

Stormwater staff has updated the priority list and GIS records. This information was presented to the Citizens Budget Advisory Committee (CBRA) for review, with a 15-year forecast, comparison of fees to surrounding jurisdictions, and possible restructuring of fees to address infrastructure problems more expediently. All CBRA members recommending increasing the fees anywhere from 70% to 100%.

Council has already reviewed their recommendations and supported scenario 5 that provided 15 years to “catch up” with the needed repairs. Mr. Aiken explained the current fee structure for the four customer classes. Currently an attached single-family home pays \$14.40 (24%), detached single-family pays \$36 (65%), non-residential (11%) pays \$36/2,654 sf impervious surface and the undeveloped is \$0.

Recommendations for increases are as follows:

1. Attached single-family residential: \$31 (113%)
2. Detached single-family residential: \$62 (72%)
3. Nonresidential: \$62/2,997 square foot impervious (60%)
4. Undeveloped: \$0.00

Mr. Aiken reported that \$851,000 was collected in 2018. In FY19, 56% went directly to system operations, maintenance, and capital improvements. Eleven percent was spent performing regulatory compliance and 33% covers program administration. The proposed utility fee amendment will amount to \$1,438,000 of annual revenue collections, and increase of \$587,000. Staff is confident that the regulatory compliance and administration costs are fairly fixed, and plans to bid out on-call contracting services again if this increase is approved.

Mr. Aiken provided a fee comparison with neighboring jurisdictions. Most cities have increased from 2011 to 2019. Duluth did not increase fees during that time.

Councilmember Jones asked why comparisons are not shown for Suwanee, Buford and Lawrenceville. Staff reported that Suwanee does not collect their own; Gwinnett County does it for them.

Mr. Aiken continued by illustrating that the monthly fee for detached single-family residence would be \$5 per month and \$2.50 per month for an attached single-family residence. Duluth bills annually along with the property taxes. For non-residential the fees would increase to \$16 per 10,000 sf ERU and fall in line with Gwinnett County fees. Councilmember Bomar reiterated that all fees collected stay in Duluth for repairs inside the City limits, whereas payments to Gwinnett County allow them to manage the funds and they can spend anywhere in the County.

Mr. Aiken stated that the next steps are to present again at the July 22 work session and move to vote on the matter at the August 12 Council meeting. Amended rates would go on the 2019 property tax bill, due in December. The amendment affects Article 15 of the Duluth Code of Ordinances as follows:

- Establish that 1.0 equivalent residential unit (ERU) equals 2,997 square feet of impervious surface area. The ERU of 2,997 square feet is the average impervious surface footprint for a typical detached single family property in Duluth.
- Establish that attached single family residential properties be charged at a rate of 0.5 ERU. The 0.5 ERU represents the average impervious surface footprint of a typical attached single family household in Duluth (1,439sf).

- Establish that each non-single family residential property be charged 1.0 ERU for each 2,997 square feet of impervious surface located on the property to calculate the total number of ERUs for billing.
- Establish a stormwater user fee for 1.0 ERU at a rate of \$62 per year.

Councilmember Bomar is concerned about the non-residential taxpayers who have the largest increase and how to best communicate this increase. Mayor Harris asked if it all has to be changed at once. Mr. Aiken confirmed, and said that the formulas represent the most equitable method due to the calculation of 1.0 ERU and square footage.

## 2. HOUSE BILL 493: PRIVATE PERMITTING REVIEW AND INSPECTION ACT

House Bill 493 (Private Permitting Review and Inspection Act) provides for professional engineers or other professionals to review certain plans related to building and development. The Bill also provides for a local governing authority to prequalify private professional providers who may perform plan reviews or inspections within a jurisdiction. Staff intends to advertise a request for qualification in the City's legal organ for services related to the Private Permitting Review and Inspection Act in July with selection in September.

Councilmember Bomar asked if the developer bears all the cost. Mr. Aiken confirmed and said that this bill probably won't affect the City very much.

## VIII. MATTERS FROM CITIZENS

### 1. DISCOVERY HOUSE/RESIDENTIAL RECOVERY REQUEST

Mr. Darrell Hall of 3048 Mill Run Court Duluth came forward to represent Recovery Works Brain Science/Discovery House, a residential addiction recovery program. The program is currently on a moratorium with a Cease and Desist order for July 25<sup>th</sup>. The Cease and Desist order allows apartment complexes to terminate leases immediately. The program has been operating for 10 years at Berkeley Landing and they have been forced to leave. Mr. Hall requested the deadline be extended to October in order to resolve issues with the City.

## IX. MATTERS FROM COUNCIL

### 1. DEVELOPMENT CONCERN

Councilmember Kelkenberg noticed that there are 20 or more pieces of corrugated pipe for installation on the development on Highway 120, and was concerned that this may be a significant maintenance issue in the future. Mr. Aiken responded that it is being used to develop an underground pond to replace a detention pond, which will become a private maintenance issue. Current code allows for this material but does not allow corrugated pipe in the right of way or under a road.

### 2. BLOCK PARTY FRIDAYS

Mayor Harris is interested in having the Food Trucks brought in for the Block Parties. Councilmember Whitlock agreed that attendees are confused about what a Block Party is, and the restaurants seem unable to handle the demand due to the larger crowds and expectation for food trucks.

Councilmember Bomar explained the initial concept was to bring the restaurants out as more of a "street fair" atmosphere, but not all restaurants are participating. The intent was to avoid the food trucks competing with the bricks and mortar restaurants.



Councilmember Kelkenberg felt that food trucks needs to be placed in strategic places so that restaurants are not blocked and the food truck sell the exact type of food. Staff is charged with determining how many food trucks to bring back at the Block Parties.

### 3. CITY AWARDS AND ACCOLADES

Councilmember Kelkenberg stated that he cooked for the kids at the day camps. He said that it looked like the kids were having a great time as are the camp counselors. Parks Director Kathy Marelle reported that Duluth was a winner in the Gwinnett 2019 Reader's Choice Award for Best Summer Day Camp. Duluth was runner-up in Sports League in Camps and Clinics. Duluth also selected for Best Festivals, Best Museum, Best Theater, Best Concert Venue, and runner-up for Best City to Live. The following restaurants won Best Restaurant in their categories; Truck N Tap, Pure Tacqueria, Noona Steakhouse, Kurt's Euro Bistro, Dreamland, Good Word Brewing, Local on North, Maple Street Biscuits, Simple Done Donuts, Crave Pie, Duluth Diner, and Nacho Daddy's. Best School went to Duluth High School and Coleman Middle School was runner-up. Best Employer went to City of Duluth!

### X. ADJOURNMENT

**A motion was made by Councilmember Whitlock, seconded by Councilmember Carden, to adjourn at 7:30pm.**

**Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg, and Whitlock.  
Motion carried.**

*The next scheduled meeting of the Mayor and Council is a work session for July 22, 2019 at 5:30 p.m.*