

**CITY OF DUNWOODY  
JANUARY 6, 2009  
COUNCIL MEETING MINUTES**

The Mayor and Council of the City of Dunwoody held a Specially Called Council Meeting on Monday, January 6, 2009 at 7:00 p.m. The Council Meeting was held in the Dunwoody United Methodist Church, 1548 Mount Vernon Road, Dunwoody, Georgia 30338. Present for this meeting were the following:

|                     |                                    |
|---------------------|------------------------------------|
| District 1, Post 1, | Denis Shortal, Council Member      |
| District 2, Post 2  | Adrian Bonser, Council Member      |
| District 3, Post 3  | Tom Taylor, Council Member         |
| At Large, Post 4    | Robert Wittenstein, Council Member |
| At Large, Post 5    | Danny Ross, Council Member         |
| At Large, Post 6    | John Heneghan, Council Member      |
|                     | Ken Wright, Mayor                  |

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|----------------|---|
| Staff Present: | Brian Anderson, City Attorney                     |
|                | Warren Hutmacher, City Manager                    |
|                | Leonid Felgin, Assistant to Acting City Clerk     |
|                | Jennifer Peterson, Community Development Director |

Mayor Wright called the Meeting to order.

**INVOCATION** led by Council Member Ross.

**PLEDGE OF ALLEGIANCE** led by Council Member Taylor.

**MINUTES:**

Councilmember Ross motioned to approve the December 29, 2008 City Council Meeting Minutes. Council Member Taylor seconded. Under discussion, certain clerical changes were made to the Minutes, such as corrections to spelling of names. Councilmember Ross moved to amend the Minutes to add certain statements by Councilmember Bonser into the budget discussion. Councilmember Bonser seconded. There being no discussion, the Mayor called for a vote on the amendment and the motion carried unanimously. There being no further discussion on the Minutes, the Mayor called for a vote to approve the Minutes as amended. The motion carried unanimously.

**PUBLIC COMMENT:** Mayor Wright requested public comments.

Brian Sims – He noted that the amounts budgeted for line items such as insurance in the budget were a bit high for the size of the City. Also, Dental and Vision insurance should cost less as well. Retirement benefits of 12% of salary are way above the 2-5% average – maybe something

can be reconsidered. He also commented that the fee for violations in the Bond Schedule is too high as well. He would like to have a Protect & Serve, rather than a Ticket/Fine, mentality to the operation of the court. He would also like to have a housing allowance for police officers as an enticement for officers to move to the City.

**CONSENT AGENDA:** None.

**UNFINISHED BUSINESS:**

**Public Hearing on the Interim Comprehensive Plan**

The Mayor opened the Public Hearing. Jennifer Peterson, Director of Community Development, went over the DeKalb Comprehensive Plan and presented it to the Council. She stated that the City will be formulating its own over a period of a year but to be able to properly make zoning decisions per the City's zoning ordinance, there is a need to keep DeKalb's plan for now. No substantive changes should be made at this time in order to stay within the guidelines of the law and the ARC.

At this time, the Mayor called for Public Comment. There were no comments. The Mayor closed the Public Comment portion of the Public Hearing.

Seeing no further discussion, the Mayor closed the Public Hearing.

**Public Hearing on the Interim Future Land Use Map**

The Mayor opened the Public Hearing. Jennifer Peterson presented the current DeKalb County Future Land Use Maps, stating that they were the graphic representations of the policies delineated in the Comprehensive Plan. She suggested that, as with the Comprehensive Plan, no major changes should be made at this time and for the same reason.

At this time, the Mayor called for Public Comment. There were no comments. The Mayor closed the Public Comment portion of the Public Hearing.

Seeing no further discussion, the Mayor closed the Public Hearing.

**Ordinance to approve Interim Comprehensive Plan** – The Second Read of Ordinance 2009-01-01, approving the City of Dunwoody Interim Comprehensive Plan, was read by Assistant to Acting City Clerk Felgin. Councilmember Shortal made a motion to approve Ordinance 2009-01-01 as presented. Councilmember Wittenstein seconded. Under discussion, Councilmember Shortal stated that it's good to get something on the books but wanted to make sure no holes existed in the Plan. Councilmember Heneghan agreed and stated that when the City does its own, it should look to compare this plan to the previous Comprehensive Plan, especially in terms of density, to see what changes were made by the County to come up with the current Comprehensive Plan. Jennifer Peterson again reiterated that they're researching with the ARC as to how much of a change can be made without going through the whole process designated by

the law for the approval of the Comprehensive Plan and until they get some direction, she urges that no substantive changes to the Plan be made. Seeing no further discussion, the Mayor called for a vote on the motion and the motion carried unanimously. (*Ordinance 2009-01-01*)

**Ordinance to Approve the Interim Land Use Map** - The Second Read of Ordinance 2009-01-02 approving the Interim City of Dunwoody Future Land Use Map, was read by Assistant to Acting City Clerk Felgin. Council Member Taylor made a motion approve Ordinance 2009-01-02 as presented. Council Member Heneghan seconded. There was no discussion and the motion carried unanimously. (*Ordinance 2009-01-02*)

**Ordinance to Adopt the International Property Maintenance Code** - The Second Read of Ordinance 2009-01-03, adopting the International Property Maintenance Code, was read by Assistant to Acting City Clerk Felgin. Council Member Taylor made a motion approve Ordinance 2009-01-03 as presented. Council Member Taylor seconded. Under discussion, Jennifer Peterson stated that this International Code is the same one all jurisdictions use and it has to be adopted separately from other ordinances. Councilmember Wittenstein asked, as to the insertions being made into the code, how the City is comparable to other jurisdictions. She stated that the City is comparable to surrounding areas but she does not have specific examples of those comparisons in terms of inserts that are allowed by the Code. Councilmember Shortal said that the Code eases some of his worries about forcing people to get permits for small jobs. Councilmember Wittenstein also asked about the occupancy requirements and Jennifer Peterson responded that this is a way to go after situations where an infrastructure is being overloaded beyond its capacity and capability, but she cannot give examples at this moment of comparisons with other jurisdictions and would have to research the question further. Seeing was no further discussion, the Mayor called for a vote on the motion and the motion carried 5-2 (Wittenstein and Heneghan opposing). (*Ordinance 2009-01-03*)

**Ordinance to approve the 2009 Fiscal Year Budget:** Councilmember Shortal moved to approve Ordinance 2009-01-04 as presented. Councilmember Ross seconded. Under discussion, Councilmember Shortal asked about the Stormwater fund – he wondered whether there is a sinking fund. City Manager Hutmacher stated that a Stormwater Utility has not been created and when one is created, the City Council should amend the budget to include a Stormwater fund. Without the utility, fees cannot be collected on the tax bill for its operation. Councilmember Wittenstein stated that the state allows for that fee but municipalities are not required to assess it. DeKalb has done so for the past several years but they can no longer do that for Dunwoody residents and the City can decide to assess its own. The City Manager further stated that he recommends a stormwater utility, but certain rules have to be followed and until such time as it is properly created, the budget should not reflect it. Councilmember Ross agreed that the utility should be looked into as any reserve funds would be quickly expended with one stormwater problem in the Perimeter area.

The City Manager commented on the Group Health Insurance question: projections had to be made for the worst case scenario and that's why the estimates are higher and when the actual benefit plans are approved, this will need to be amended to reflect the actual costs. Also, the City will need to retroactively adopt a Fiscal Year 2008 Budget to properly be within the State

audit rules for the first month of the City's operation.

The City Manager commented on the housing allowance for police officers to live in Dunwoody. There are a range of various plans and successes/drawbacks of the housing allowances and it is something that can be looked at and evaluated further. Councilmember Shortal stated that an honest wage is paramount. In this economy, there is no need to pay a higher premium for benefit health insurance. The City Manager also commented on the reasonable limit of the police car gas allowance and there was no recommendation currently as to the radius of travel this would allow. Councilmember Wittenstein commended the Staff again on the work which went into creating the budget. There being no further discussion, the Mayor called for a vote and the motion carried unanimously. (*Ordinance 2009-01-04*)

**Ordinance to Set Fiscal Year:** The second read of Ordinance 2009-01-05, adopting the City of Dunwoody Fiscal Year, was read by Assistant to Acting City Clerk Felgin. Councilmember Shortal moved to approve Ordinance 2009-01-05 as presented. Councilmember Bonser seconded. There being no discussion, the Mayor called for a vote and the motion carried unanimously. (*Ordinance 2009-01-05*)

**TAN Ordinance:** The second read of Ordinance 2009-01-06, authorizing the City of Dunwoody Tax Anticipation Note, was read by Assistant to Acting City Clerk Felgin. Councilmember Taylor moved to approve Ordinance 2009-01-06 as presented. Councilmember Wittenstein seconded. Under discussion, Councilmember Shortal noted that this was the same note discussed at the previous meeting. Seeing no further discussion, the Mayor moved for a vote and the motion carried unanimously. (*Ordinance 2009-01-06*)

Councilmember Shortal moved to move the discussion and vote on the Resolution to approve the Assistant City Clerk to be the next item on the Agenda. Councilmember Wittenstein seconded. There being no discussion, the Mayor called for a vote and the motion carried unanimously.

**Resolution to Appoint an Assistant Acting City Clerk:** Assistant to Acting City Clerk Felgin read Resolution 2009-01-03, to appoint the Assistant Acting City Clerk for the City of Dunwoody. Councilmember Shortal moved to approve the Resolution as presented. Councilmember Taylor seconded. Under discussion, the City Manager stated that Laura Cook is on staff and this would be a convenient move to get documents signed whenever necessary since the Acting City Clerk is not always available. There would be no additional cost to the City. There being no further discussion, the Mayor called for a vote and the motion approved unanimously. (*Resolution 2009-01-03*).

**Mayor requested a ten-minute break and temporarily adjourned the meeting for 10 minutes.**

**After the Break, the Council proceeded to the next item on the agenda:**

**Ordinance to approve the Comcast Franchise** – The deferred Second Read of Ordinance 2008-12-53 approving the grant of a video and cable franchise to Comcast of Georgia I, LLC

was read by Assistant to Acting City Clerk Felgin. Council Member Ross made a motion approve Ordinance 2008-12-53 as presented. Council Member Taylor seconded. Under discussion, Councilmember Wittenstein asked if the City can regulate the rates Comcast charges. City Attorney Anderson stated that he would look into it but was not sure the City had the authority to do so. The Council discussed several concerns regarding how the competition is regulated and Counsel Anderson stated that this would not forbid another company from negotiating with the City for a cable franchise or to obtain one directly from the state, as another franchisee has done. The Council and City Attorney discussed the difference in acquiring a state franchise and negotiating a contract with the franchisee and the City Attorney stated that the City would get a better deal and better level of regulation by negotiating a private contract with the company rather than having them go through the state where the City has not negotiating power. The Council also brought attention to the Restoration of Public Ways in the Agreement that did not exist in the previous version. Councilmember Wittenstein wanted for the City to look at other things in the Agreement that the City may need to negotiate with Comcast. Councilmember Wittenstein moved to defer this Ordinance to the next meeting. Councilmember Taylor seconded. Under discussion, Councilmember Shortal said that only those things mentioned should be investigated. Seeing no more discussion, the Mayor moved for a vote on the motion to defer and the motion carried unanimously. The Ordinance was deferred.

**Resolution to approve the Zoning and Planning Schedule of Fees:** Assistant to Acting City Clerk Felgin read deferred Resolution 2008-12-34, to approve a schedule of fees for Planning and Zoning. Councilmember Shortal moved to approve the Resolution as presented. Councilmember Taylor seconded. Under discussion, Jennifer Peterson stated that these rates are competitive with 15 surrounding jurisdictions. Councilmember Shortal reminded Council of the discussions that occurred at last week's meeting regarding certain items that are exempted from the fees and certain fees being changed depending on what job is being done and how extensive it is. This allows for homeowners to use the help of City personnel to make repairs on their own and that is the reason there are no reinspection fees on some items as a result. In response to Councilmember Wittenstein's question, Jennifer Peterson stated it was still appropriate to have water/sewer fees because of the inspection that will go into several projects on private property, since the County is only responsible for water/sewer lines up to a certain point on the property, specifically the water meter. Those inspection fees are taken care of by the County. Councilmember Shortal agreed that there is due diligence in requiring those inspections so that there are no negative legal ramifications if any problems occur. There being no more discussion, the Mayor moved for a vote on the motion and the motion carried unanimously. (*Resolution 2008-12-34*).

**REPORTS AND PRESENTATIONS** – None.

## **NEW BUSINESS**

**Readoption of Zoning Ordinance and Updated Zoning Maps:** The First Read of Ordinance to re-adopt Chapter 27 (City of Dunwoody Zoning Ordinance) with updated Zoning Maps was

held. City Attorney Anderson stated that the only difference in this ordinance from the one that was passed December 18, 2008 is that updated zoning maps are included. Jennifer Peterson stated that, as soon as possible, the updated zoning maps will be up online and the Community Development Department will make them more user-friendly and color-coded. Mayor Wright requested Community Development to research lowering the number of unrelated family members in residential zoning provisions to three (3) from four (4) that is currently in the ordinance. *(First Read)*

**Resolution for Municipal Court Fee Schedule:** Assistant to Acting City Clerk Felgin read Resolution 2009-01-01, adopting the Municipal Court Processing Fee, for consideration. Councilmember Heneghan moved to approve the Resolution as presented. Councilmember Ross seconded. Under discussion, the City Manager stated that these are comparable to other jurisdictions. The City Manager also explained that the City is only approving the processing fee and the rest of the fees are set by the judge and are here simply as information to the Council. The City Manager also stated that the DeKalb Police have given out citations in December that will be adjudicated in the Municipal Court after all citation recipients are notified of the change in jurisdiction. Council asked why the fees included those for speeding under 10 miles over speed limit. Chief Grogan stated that the State requirement that less than 10 miles per hour over the posted speed is not enforced is only for radar detection and does not apply if pacing is involved. Seeing no more discussion, the Mayor called for a vote on the motion and it was approved unanimously. *(Resolution 2009-01-01)*

**Resolution to re-adopt Rules and Procedures of City Council:** Assistant to Acting City Clerk Felgin read Resolution 2009-01-02, readopting the City Council Rules and Procedures with certain amendments. Mayor Wright moved to defer the Resolution to the January 26<sup>th</sup> City Council Meeting. Councilmember Shortal seconded. Under discussion, Councilmember Wittenstein stated that the Council needs to discuss deferral and comments provisions in the Rules and Procedures before voting on the Resolution and they can do that at their retreat on the 20<sup>th</sup> of January. Seeing no further discussion, the Mayor called for a vote on the motion to defer and the motion carried unanimously. The Resolution was deferred.

**Amendment to Chapter 16:** The First Read of Ordinance to amend Chapter 16 (Offenses and Violations), amending the alcohol in city parks prohibitions provision, was held. Councilmember Shortal stated that this concerns what alcohol can be served in the City parks. The City Manager requested that the City Council advise him on what criteria to include for permit acquisition for such purposes. *(First Read)*

**OTHER BUSINESS:** None.

**PUBLIC COMMENT:**

Steve Ludwick – He stated that Comcast is not regulated like the electrical and gas companies and really only pay the franchise fees that consumers pay them which, in essence, is the City collecting from its taxpaying residents. He knows there is nothing that can be done about it but

he just wanted to mention it to Council.

Brian Sims – He wanted to know whether the City Council ever received a map of where the sexually oriented businesses can operate and locate, as Councilmember Wittenstein had requested prior to the December 18<sup>th</sup> Meeting.

There being no further business, Councilmember Shortal moved for an Executive Session on Personnel and Real Estate Matters. Councilmember Taylor seconded. The motion carried unanimously. Mayor Wright stated that there will be no business following Executive Session and that the meeting would be immediately adjourned.

The Council went into Executive Session, after which the Meeting was adjourned.

Approved by:

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Ken Wright, Mayor

Attest:

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Sharon Lowery, City Clerk