

CITY OF DUNWOODY
September 14, 2009
CITY COUNCIL MINUTES

The Mayor and Council of the City of Dunwoody held a City Council Meeting on Monday, September 14, 2009 at 7:00 p.m. The Council Meeting was held in the City of Dunwoody City Hall, 41 Perimeter Center East, Dunwoody, Georgia 30346. Present for this meeting were the following:

Mayor	Ken Wright
District 1, Post 1	Denis Shortal, 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
Staff Present:	Brian Anderson, City Attorney Warren Hutmacher, City Manager Sharon Lowery, City Clerk Lenny Felgin, Assistant City Attorney Howard Koontz, City Planner Chris Pike, Finance Director Billy Grogan, Chief of Police

Mayor Wright called the Meeting to order.

ROLL CALL AND GENERAL ANNOUNCEMENTS

Mayor Wright announced that all members were in attendance except Council Member Bonser.

FY 2010 Budget Update

Finance Director Chris Pike announced that the City would release a Public Hearing notice this Wednesday in the Crier to announce the availability for public inspection of the proposed budget for FY 2010. In addition, there will be a public hearing and first read of the ordinance on October 19th and a week later a second read and adoption of the FY 2010 budget. Mr. Pike added that this month there would be a first and second read and adoption of the budget ordinance as required by the City Charter.

INVOCATION led by Council Member Ross.

PLEDGE OF ALLEGIANCE led by Council Member Taylor.

MINUTES:

Council Member Wittenstein moved to approve the August 24, 2009. Council Member Taylor seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

APPROVAL OF THE MEETING AGENDA:

Council Member Wittenstein motioned to amend the agenda to add item L9) amend meeting starting time for September 28th meeting to 7:30 pm. Mayor Wright seconded. Mayor Wright called

for a vote and the motion carried unanimously (6-0). Council Member Shortal motioned to amend the agenda to add item L10) review and discussion of possible amendment to Chapter 27, Section 2C-3(b) and (c) Mayor Wright seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0). Council Member Shortal motioned to approve the agenda as amended. Council Member Heneghan seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

PUBLIC COMMENT: Mayor Wright requested public comment.

Jim Maloney – congratulated Council Members Taylor and Shortal for starting their second terms of office without an election. He suggested the City donate the \$20,000 savings realized due to not holding an election to The Heart of Dunwoody to assist in funding the purchase of AEDs.

Bob Dallas – commented on the “Tour de Pink” that will be held in October and said that it sets the stage for what the City of Dunwoody should be – the most bike friendly city in metro-Atlanta.

Larry Adams – a resident on Glaze Drive in the city and that he has a problem with the application of the Shell Station for a liquor license. He said the neighbors have met with the owners, who haven’t followed through with their promises to clean up the property. Mr. Adams said the neighbors are respectfully asking that the application be denied.

Mayor Wright closed public comment.

MAYOR AND COUNCIL COMMENT:

Council Member Heneghan congratulated the Police Department for foiling a band robbery attempt today and arresting the suspect five minutes after it happened.

Council Member Ross commented that he and Council Member Wittenstein met with ten undergraduate students from Georgia Tech who are undertaking in their studies this semester the redevelopment of Dunwoody Village. He thanked Mr. Bob Dallas for setting the meeting up.

CONSENT AGENDA:

UNFINISHED BUSINESS:

Contract amendments for Lowe Engineers (storm water)

City Manager Warren Hutmacher presented the contract amendments for Lowe Engineers. He explained that the storm water utility was added after the original contract with Lowe was approved. The proposal from Lowe to manage the storm water program is as follows; total cost for 2009 - \$108,400; total cost for 2010 - \$250,000; total cost for 2011 – \$250,000. These fees are on accost not to exceed price at hourly rates identical to those used to formulate the Public Works bid submitted by Lowe last year. Council Member Wittenstein asked what options the City has. Mr. Hutmacher replied that the service could be bid out or negotiate the contract. Council Member Ross motioned to approve the contract amendments. Mayor Wright seconded. Council Member Wittenstein said that he would like to see this taken out to bid. Mayor Wright called for a vote and the motion carried (5-1), with Council Member Wittenstein voting “Nay”.

REPORTS AND PRESENTATIONS:

Proclamation – “Young Survival Coalition’s Tour de Pink Atlanta” City Clerk Sharon Lowery read the proclamation for the “Tour de Pink”, a one day bike ride to be held on October 17th in Dunwoody. Mayor Wright presented the proclamation to Courtney Bugler, Executive Director of the Greater Metro Atlanta Young Survival Coalition.

NEW BUSINESS

Approval of CVBD FY 2010 Budget: Mr. Bob Cottle, Secretary/Treasurer of the Board of Directors of the Convention & Visitors Bureau of Dunwoody, presented the CVBD’s proposed budget for the remainder of the year for Fiscal Year 2009. Council Member Wittenstein motioned to approve. Mayor Wright seconded. Council Member Ross offered an amendment to the motion that all line items in the proposed budget remain the same but that the carryover to 2010 line item is increased to \$96,000.00, bringing the total to \$248,000. Council Member Taylor seconded. Mayor Wright called for a vote on the amendment and the motion carried unanimously (6-0). Mayor Wright called for a vote on the main motion and the motion carried unanimously (6-0).

Appointment of Sherry Boston as additional Dunwoody Municipal Court Judge Council Member Shortal moved to approve the appointment of Sherry Boston as an additional Dunwoody Municipal Court Judge. Council Member Taylor seconded. Mayor Wright introduced Ms. Boston. Ms. Boston said she has extensive experience in municipal courts all over metro-Atlanta and she believes she will bring some good ideas to the Court. Mayor Wright called for a vote and the motion carried unanimously (6-0).

FIRST READ: Ordinance to amend Chapter 4: Alcohol Beverages (ORDINANCE 2009-XX-XXX) City Clerk Sharon Lowery read the Ordinance to amend Chapter 4: Alcohol Beverages. Council Member Shortal asked if ten days would give enough notice for appeal. Assistant City Attorney Lenny Felgin replied that is was.

Resolution to amend the Alcohol Permit fee schedule for patio sales (RESOLUTION 2009-09-50) City Clerk Sharon Lowery read the Resolution to amend the Alcohol Permit fee schedule for patio sales. City Attorney Brian Anderson explained that the Resolution sets the fee for sale of alcohol on patios. Council Member Shortal motioned to approve as read. Council Member Ross seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

Resolution for GCIC related fees (RESOLUTION 2009-09-51) City Clerk Sharon Lowery read the Resolution for GCIC related fees. Chief Grogan explained that this Resolution sets fees that were previously overlooked and that they are similar to others. Council Member Wittenstein moved to adopt the Resolution. Council Member Taylor seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

HEARING on liquor license application for 5020 Winters Chapel Road City Attorney Brian Anderson reminded that the ground rules were ten minutes each side. Mayor Wright opened the hearing without objection. City Attorney Anderson stated that the City received an application for a liquor license for 5020 Winters Chapel Road. Mr. Anderson said that pursuant to state regulations the City cannot approve the application and there is no discretion within the regulations to do so. Staff’s recommendation is to deny the liquor license application for 5020 Winters Chapel Road. Mayor Wright asked those wishing to speak in favor of the application to come to the podium.

Mr. Jonathan Fain, attorney for the applicant, stated that his client has no opposition to denial of the application for this location. He said this was the first application and his client has sub-divided.

Mayor Wright asked those wishing to speak in opposition to the application to come to the podium.

Mr. Larry Adams said that he was representing the neighbors and that the current owners haven't lived up to their promises. He said this is the same building and that it shares a common wall. Mr. Adams asked that City Council deny the application.

Mayor Wright closed the hearing without objection.

Council Member Ross moved to deny the application for a liquor license for 5020 Winters Chapel Road. Council Member Taylor seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

HEARING on liquor license application for 5020 Winters Chapel Road Suite B Mayor Wright opened the hearing without objection. City Attorney Anderson stated that in this request there is a distance requirement of 200 yards from residential. He said that Staff had measured the distance and that it does not meet the distance requirements. Kevin McComber, Community Development Director, stated that Staff measured from the front door of the business to the property line and had measured twice.

Mayor Wright asked those wishing to speak in favor of the application to come to the podium.

Mr. Jonathan Fain, attorney representing the applicant, distributed documents to the City Council. He said that the measuring criteria in Article 4 of Chapter 4 are 200 yards from a private residence. Mr. Fain said the applicant hired a registered Georgia land surveyor who prepared a survey and the measured distance was 221 yards.

Mr. Mansour said a survey was performed as the law required. He said the client performed work in excess of \$100,000 and a Certificate of Occupancy was issued, but that a liquor license was not issued and distance was cited as the reason.

Mayor Wright asked those wishing to speak against the application to come to the podium.

Mr. Larry Adams said that Mr. Mansour failed to show the townhomes and the day care facility that are less than 200 yards from the front door through his building to the town homes. Mr. Adams said that in almost every instance in which distance is measured, the straight line distance measuring is used.

City Attorney Anderson said that the applicant stated that the second application was submitted before the 200 yards distance requirement was in place, but it was submitted after the ordinance amendment.

Kevin McComber, Community Development Director, explained that his department actually had two staff members go out and that they measured from the front door of the structure to the property line, as defined in the Chapter 4, Article 4, subsection (d) (1) and in subsection (d) (2). Mayor Wright closed the hearing without objection.

Council Member Ross moved to deny the liquor license application for 5020 Winters Chapel Road Suite B. Council Member Wittenstein seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

Mr. Fain motioned for reconsideration. Mayor Wright replied “no”. Mr. Fain motioned for appeal. Mayor Wright replied “no”.

ACTION ITEM: DeKalb County Convention & Visitors Bureau contract Council Member Shortal made a motion to authorize the City Manager or Mayor to terminate the contract between the City of Dunwoody and the DeKalb CVB at the explicit direction of the CVB of Dunwoody Board of Directors. Council Member Ross seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

Amend Starting Time for September 28th City Council Meeting Council Member Taylor moved to amend the starting time for the September 28th City Council meeting to 7:30 p.m. Council Member Shortal seconded. Mayor Wright called for a vote and the motion carried unanimously (6-0).

Review and Discussion of Possible Amendment to Chapter 27, Section 2C-3(b) No motion required.

OTHER BUSINESS: None.

PUBLIC COMMENT: None.

EXECUTIVE SESSION:

Mayor Wright motioned to break into executive session for discussion of legal and real estate. Council Member Taylor seconded. The vote carried unanimously (6-0).

ADJOURN

Council Member Wittenstein motioned to adjourn. Mayor Wright seconded. Mayor Wright called for the vote and the motion carried unanimously (6-0).

There being no further business the Meeting was adjourned.

Approved by:

Ken Wright, Mayor

Attest:

Sharon Lowery, City Clerk