



**MINUTES OF THE
MAYOR AND COUNCIL
CITY OF DULUTH, GA
DECEMBER 11, 2023**

PRESENT: Mayor Harris, Council members Harkness, Doss, Graeder, and Whitlock, City Manager, Department Directors, City Attorney

ABSENT: Councilmember Thomas

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

Mayor Harris called the meeting to order at 5:35 pm.

I. EXECUTIVE SESSION

It was necessary to hold an executive session on Real Estate, Pending/Potential Litigation, or Personnel, which is properly excluded from the Georgia Open and Public Meeting Law (O.C.G.A. 50-14).

A motion was made by Councilmember Graeder, seconded by Councilmember Whitlock, to adjourn to executive session at 5:35 pm.

Voting for: Council members Harkness, Doss, Graeder, and Whitlock
Motion carried.

After the discussion, a motion was made by Councilmember Whitlock, seconded by Councilmember Harkness, to return to regular session at 6:00 pm.

Voting for: Council members Harkness, Doss, Graeder, and Whitlock
Motion carried.

Mayor Harris reflected on her 16 years of service to the City of Duluth. She said that it has been an honor and privilege to serve and is immensely proud of all Duluth has accomplished. She expressed confidence in both the safety and security of the city and the future of the city's leadership.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

II. ANNOUNCEMENTS

1. AGENDA CHANGES (none)
2. UPCOMING EVENTS – www.duluthga.net/events

Cookies & Cocoa with Santa, December 16. 10am-12pm. Duluth Festival Center.

Frosty Fun Downtown Duluth.

December 19 & 20 - Snow Mazing, 2pm-8pm each day

December 21 & 22 - Toboggan Tunnel, 2pm-8pm each day

December 23 - Toboggan Tunnel, 2pm-7pm

December 27 - Snow Playground, 2pm-5pm

December 28 - Snow Slide, 4pm-6pm

December 29 & 30 - Inflatable Wonderland Story Walk, 12pm-8pm each day

December 31 - Noon Years Eve, 11am-1pm

January 2 - Jack Frost Magic, 4pm-7pm

January 2 - Live Ice Carving, 5pm-7pm

III. CEREMONIAL MATTERS

1. PROCLAMATION – DULUTH FALL FESTIVAL 40 YEARS {A}

Mayor and Council will recognize the Duluth Fall Festival for 40 years of service to the City of Duluth.

2. PROCLAMATION – RICK CASE “BIKES FOR KIDS” DAY {B}

Mayor and Council will present a proclamation to Tammy Baker and Mark Johnson to recognize Rick Case Bike for Kids.

IV. MATTERS FROM CITIZENS

Mr. Sayed Hussaimi of 3375 Northgate Lane and Kusum Ahuja of 3390 Northgate Lane came forward to discuss the citations received for overnight parking on the street. They both noted that they did not receive warnings and their HOA had not communicated the changes to residents.

V. CONSENT AGENDA

1. APPROVAL OF NOVEMBER 13 & 27 MINUTES

2. ORDINANCE TO AMEND THE DULUTH CODE {C}

As discussed at the November 27, 2023 work session, staff proposes to revise the Municipal Code as it pertains to retaining wall heights and the need for permits, to be more consistent with the International Building Code (IBC). Approval of this item approves ordinance O2023-30 amending Section 5.29 to match the 4 foot maximum wall height which will align the City's code with the IBC in terms of permit requirements related to retaining walls.

3. ORDINANCE TO AMEND THE DULUTH CODE – ALCOHOL {D}

Recommendations from the Alcohol Board and staff were discussed with the Mayor and Council during the November 27 work session. The City Attorney explained that most of the amendments for consideration were general housekeeping items for clarification and moving certain subsections into the correct sections of the Code. In addition, language was added to assist Code Enforcement when issuing citations for presentation in court as well as updating language that aligns with state law. Approval of this ordinance approves ordinance O2023-31 to amend Chapter 3 of the Duluth Code as presented.

4. APPROVAL OF CONTRACT – CITY MANAGER {E}

Approval of this item authorizes Mayor Harris to execute an amendment to the City Manager's Employment Agreement by amending Section 21 of the City Manager's contract regarding Notice of Delivery by adding language "or via hand delivery" further amending Section 10 Auto Allowance by increasing the per pay period allowance from \$500 to \$550; further extend the term of the contract until December 31, 2024.

5. BID AWARD – HVAC - RED CLAY THEATRE {F}

Approval of this item awards the bid for the HVAC work at Red Clay Theatre to Lane Heating and Air in an amount not to exceed \$29,100 as discussed and authorized at the November 27 work session.

6. ORDINANCE TO AMEND BUDGET – HVAC & ICE MACHINE {G}

At the November 27 work session, Lane Heating & Air was recommended to replace five (5) HVAC units at a cost of \$29,100 as well as the purchase of a commercial ice machine from ACity Discount at a cost of \$6,700. Accordingly, approval of this item approves budget amendment BA-FY24-16 to add \$35,800 in

unallocated 2023 SPLOST Cultural Facilities fund to CA-10 Red Clay Theater - Special Recreational Facilities - Machinery line item, including associated transfers.

7. ORDINANCE TO AMEND FY23 BUDGET – ARPA FUNDS {H}

The City received \$11,057,077 in American Rescue Plan Act (ARPA) federal funds and elected to claim the \$10 million standard allowance for lost revenue. In compliance with ARPA regulations, the City has reported police uniform salaries as lost revenue to document use of these funds for government services. For FY23, \$2,031,123.76 in police uniform salaries were reported as ARPA lost revenue. Accounting standards require funds to be transferred from the ARPA Fund to the General Fund based on the salaries reported. Staff request approval of a budget amendment to add \$2,032,000 to American Rescue Plan Act 2021 - Other Financing Uses - Transfer to General Fund and American Rescue Plan Act 2021 - ARP Act of 2021 Local Fiscal Recovery Funds and General Fund - Transfer from ARPA 2021. Approval of this item approves BA-FY23-34 to amend the FY23 budget as presented.

8. ORDINANCE TO AMEND FY24 BUDGET – ARPA FUNDS {I}

The City received \$11,057,077 in American Rescue Plan Act (ARPA) federal funds and elected to claim the \$10 million standard allowance for lost revenue. In compliance with ARPA regulations, the City is reporting police uniform division salaries as lost revenue to document use of these funds for government services. For FY24, staff estimates \$2,760,000 in police uniform salaries will be reported as ARPA lost revenue. Accounting standards require funds to be transferred from the ARPA Fund to the General Fund based on the salaries reported. Staff request approval of a budget amendment to add \$2,760,000 to American Rescue Plan Act 2021 - Other Financing Uses - Transfer to General Fund and American Rescue Plan Act 2021 - ARP Act of 2021 Local Fiscal Recovery Funds and General Fund - Transfer from ARPA 2021. Approval of this item approves BA-FY24-17 to amend the FY24 budget as presented.

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

Voted For: Council members Harkness, Doss, Graeder, and Whitlock
Motion carried.

VI. PUBLIC HEARINGS

1. ORDINANCE OF– CASE Z2023-002 – RAINBOW VILLAGE {J}

Councilmember Whitlock recused himself from this discussion and left the chambers due to his involvement with Rainbow Village.

Mayor Harris opened the public hearing to consider the rezoning case Z2023-002 for 3431 Duluth Highway, tax parcel 6293 121 as an expansion of the adjacent Rainbow Village complex.

Community Development/Engineering Director Margie Pozin came forward to present. The subject property is currently C-1 and is proposed for PUD (Planned Unit Development). She described the existing conditions and displayed the map. Ms. Pozin referenced the Character Area and noted that there are 21 conditions. She highlighted the requirement to locate transitional housing on the property, and the required number of parking spaces.

On November 6, 2023, the Planning Commission heard and approved the rezoning case Z2023-002 for 3431 Duluth Highway. Staff also recommended approval with conditions.

The Mayor called for discussion from Council. Being none, Mayor Harris called the applicant forward.

Ms. Teresa Curry of 70 Mansell Court, Roswell GA came forward to discuss expanded services.

Councilmember Harkness commented that he liked the preliminary concept.

Councilmember Graeder noted it was a similar height of the District and adds no burden on existing traffic. He felt the project would fit in well with the space nearby.

Mayor Harris called for questions or comments from the public. Being none, she closed the public hearing and called for a motion.

A motion was made by Councilmember Doss, seconded by Councilmember Graeder, to approve ordinance O2023-28 as presented.

Voted For: Council members Harkness, Doss, and Graeder
Abstaining: Councilmember Whitlock
Motion carried.

Councilmember Whitlock returned to the meeting.

2. ORDINANCE OF SPECIAL USE – CASE SU023-008

Mayor Harris opened the public hearing to consider special use request SU2023-008 for 3585 Peachtree Industrial Blvd, Suite 157, tax parcel 6296 035 to allow for the sales of Tobacco and Tobacco products (Cigar, Tobacco and Vape products).

Community Development/Engineering Director Margie Pozin came forward to present. She described the current conditions and surrounding zoning districts. The subject parcel is within the Medical Triangle District supported by mixed-use developments.

Ms. Pozin described several of the conditions and noted that several had been revised since the Planning Commission meeting to be less generic and require action in specific timeframes.

On November 6, 2023, the Planning Commission heard and approved the special use request SU2023-008 for 3585 Peachtree Industrial Blvd, Suite 157. The applicant proposed to use the space for a tobacco/vape shop, which is only permitted in this zoning classification with a special use permit. Staff also recommends approval with modified conditions as presented.

Mayor Harris called for discussion from Council.

Councilmember Whitlock asked if they have had communication with other tenants to receive input. Ms. Pozin said she was not aware if they had.

Councilmember Graeder asked if there are other tobacco stores in that area. There is a 3 Brothers smoke shop nearby.

Councilmember Harkness asked if there is a limit on the number of smoke shops or restrictions in a certain vicinity. Ms. Pozin said there is no limit.

Mayor Harris called the applicant forward. The applicant was not in attendance; therefore she 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.

A motion was made by Councilmember Graeder to approve ordinance O2023-29 as presented.

Motion died for lack of a second.

A motion was made by Councilmember Whitlock, seconded by Councilmember Harkness, to deny ordinance O2023-29 as presented.

Voted For: Council members Harkness, Doss, and Whitlock

Voted Against: Council member Graeder

Motion carried.

3. 2040 COMPREHENSIVE PLAN UPDATE

{K}

Mayor Harris opened the public hearing.

Former Planning Director Forrest Huffman came forward to present. He explained that the Community Development & Engineering staff has been working on a major update to the 2040 Comprehensive Plan, FORWARDuluth. For one month, a draft of the plan has been available for public review and comment.

This presentation is the final opportunity for public input prior to submitting the plan to the Atlanta Regional Commission (ARC) for review.

Mr. Huffman reviewed the demographics and highlighted the changes over time. The Atlanta Regional Commission projects that growth in the region and Gwinnett County will continue, with Gwinnett having over 1.3 million residents in 2040. He gave a breakdown by ethnicity, age, work travel and employment sectors, and housing supply gaps.

Mr. Huffman discussed the timeline for receiving community input. The draft is due to ARC for review and comment and City resolution of final approval by February 28, 2024. He discussed the categories that the community was asked to rank in order of importance, the perceived "SWOT's - biggest strengths, weaknesses, opportunities, and threats of the City.

A big component of the Comprehensive Plan is Character Areas and Future Land Use maps, which are essential when working with potential applicants and projects. He discussed the Downtown Core map recommendations regarding pedestrian mobility options and TAD alignment. He also referenced the Core Neighborhood aspirations and summarized Urban Neighborhood goals. Mr. Huffman discussed the Chattahoochee Residential space mostly behind Encore, but the recommendation is to include Sweetbottom and Howell Ferry subdivisions. He also mentioned future options for Established Neighborhoods, reviewing the Sugarloaf Activity area, and aspirations for the Rivergreen Employment area.

Mr. Huffman mentioned the Medical Triangle area (Hudgens Property) and a conceptual plan has already been developed in the event the property becomes available. He discussed the Duluth Highway corridor and the Peachtree Retail area. He then highlighted some of the changes in the Future Land Map and explained the recommendations.

Mr. Huffman reviewed the Short Term Work Program components and gave a report of accomplishments. He noted that many of the feedback and questions raised by both the public and steering committee have been incorporated into the plan.

Councilmember Graeder was part of the steering committee and asked how many people had given feedback during the last open period. Mr. Huffman responded that there were three, and reported they have been incorporated into the plan. The formal approval comes in February and will then be accessible on the website; prior to that, he will provide council with the updated version going to ARC.

Councilmember Harkness raised a question on the Medical Triangle area regarding the strike through the Hudgens Property. Mr. Huffman reported that a conceptual plan had been created so that item was considered complete.

Councilmember Harkness asked about ADUs/type of housing in the Howell Ferry District/Chattahoochee District. Mr. Huffman said that a Character Area is a guiding document not a regulatory/permitting document. Higher densities will be encouraged in areas that are walkable to downtown districts.

The Mayor called for discussion from the public.

Ms. Shenée Holloway of 4080 Old Town Way came forward with questions about the public comment process. Mr. Huffman confirmed that the public comments have been aggregated for working purposes.

Mr. Mark Watkins of 693 Peachtree St #11a Atlanta came forward representing the SUP applicant. The City Attorney noted that that public hearing had already opened and closed.

A resident of 3465 Duluth Hwy, the District, came forward to commend the Planning team for the thoroughness of this document. He emphasized the need for improved access to non-motorized transit options.

The Mayor closed the public hearing. *No motion was necessary.*

VII. OLD BUSINESS

1. ORDINANCE TO AMEND THE CHARTER – 2ND READING {L}

Per State Law, two readings of an ordinance to amend the City Charter must be presented before the Mayor and Council for consideration. The first reading was held and approved by the Mayor and Council at its regular meeting held November 13th. Approval of this item approves the second reading of an ordinance to amend the Charter of the City of Duluth, Georgia, to repeal all laws or ordinances in conflict wherewith, and for other purposes.

City Attorney Stephen Pereira asked if there were any questions regarding the Proposed Amendments:

- Section 1.13 (40)- Examples of Powers Taxicabs - regulations removed from under municipal and placed under State.
- Section 1.13 (23) Examples of Powers – Specific penalties, remove reference to Gwinnett County Health & Sanitation Ordinance.
- Section 2.18 – inserting “Mayor or” City Clerk.
- Section 4.14 – Certiorari - Superior and State court appellate act effective July 1, 2023, which now governs all appeals from Municipal Courts to State or Superior Court which in the past was handled by the Writ of Certiorari.
- Section 4.15 - Rules for Court. The Uniform Municipal Court Rules were approved by the Supreme Court of Georgia in 2010, and now govern all of the Municipal Court procedures.
- Removing where referenced “Georgia Municipal Election Code” and replacing with “Georgia Election Code.”

A motion was made by Councilmember Whitlock, seconded by Councilmember Doss, to approve ordinance O2023-26 as presented.

Voted For: Council members Harkness, Doss, Graeder, and Whitlock
Motion carried.

VIII. NEW BUSINESS

1. BID AWARD - MAIN ST ENHANCED SIDEWALK – PHASE II {M}

Community Development/Engineering Director Margie Pozin summarized the request.

On October 5, 2023, the ad for the Main Street Enhanced Sidewalk, Phase II, was posted online and on the State Procurement Registry. On October 8, the ad started running in the Gwinnett Daily Post. On November 9, four proposal packages were received and opened, and the cost section of each was read aloud.

Staff then evaluated the four submittals for completeness, cost, and qualifications. Scores were based on total cost (up to 70 points), written approach and project schedule (up to 25 points), and resumes and references (up to 5 points). Three independent evaluators reviewed the approach and schedule sections of each of the four submittals. The completeness reviews and reference checks were handled by the City Engineer.

The scores were as follows:

- JHC Corporation:	29.7
- Ohmshiv Construction:	79.0
- Vertical Earth:	92.3
- IP Construction:	95.3

Therefore, Staff recommended awarding the contract to IP Construction in the amount of \$3,035,720.21. This includes the base bid and the add alternate (covering the landscaping of the enhanced green space at the corner of North and Main Streets, in the event the sewer project is complete in time for said landscaping).

A motion was made by Councilmember Harkness, seconded by Councilmember Whitlock, to approve awarding the Main Street Enhanced Sidewalk Phase II contract to IP Construction in the amount of \$3,035,720.21 and further authorize the Mayor or City Manager to execute the City-attorney reviewed contract.

Voted For: Council members Harkness, Doss, Graeder, and Whitlock
Motion carried.

2. ORDINANCE TO AMEND BUDGET - \$3,800,000 – MAIN ST PHASE II

{N}

Upon approval of awarding the contract for Main Street Enhanced Phase II project (CD-71), staff requests approval of a budget amendment to cover the following project costs:

Construction:	\$3,035,720.21	
Contingency:	\$607,144.04	(20% for unforeseen circumstances)
Materials Testing:	\$67,158.00	(includes 20% contingency as well)
Construction Admin:	\$89,977.75	

TOTAL BUDGET: \$3,800,000

This project is part of the City's 2017 SPLOST Intergovernmental Agreement (IGA) with Gwinnett County whereby the County pays 81% of the costs and the City pays the remaining 19% (plus any overage beyond the maximum IGA amount).

Council to consider approval of budget amendment BA-FY24-18 to add the following to the Main St Multi-Use Trail capital project budget: \$1,248,044 in Gwinnett County Joint funds; \$296,149 in unallocated 2017 SPLOST Transportation funds, and \$2,000,000 in unallocated 2023 SPLOST Transportation funds. The remaining funds for the project will come from the closing out of other transportation projects.

A motion was made by Councilmember Graeder, seconded by Councilmember Whitlock, to approve ordinance BA-FY24-18 as presented.

Voted For: Council members Harkness, Doss, Graeder, and Whitlock
Motion carried.

IX. ADJOURNMENT

A motion was made by Councilmember Graeder, seconded by Councilmember Whitlock, to adjourn at 7:40 pm.

Voting for: Council members Harkness, Doss, Graeder, and Whitlock
Motion carried.

Approved this 8 day of January, 2024.


Mayor Nancy Harris

ATTEST:


Asst. City Mgr./City Clerk, Teresa Lynn