



**MINUTES OF THE
MAYOR AND COUNCIL
CITY OF DULUTH, GA
MAY 8, 2023**

PRESENT: Mayor Harris, Council members Harkness, Thomas, Doss, Graeder, 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. No other items were discussed, and no action was taken.

Mayor Harris called the meeting to order at 5:40 p.m. in order to adjourn to an executive session.

I. EXECUTIVE SESSION

It was necessary to call an executive session for the purpose of discussing Pending/Potential litigation, Personnel and or Real Estate Matters excluded from the Georgia Open and Public Meeting Law (O.C.G.A. 50-14)

A motion was made by Whitlock, seconded by Councilmember Graeder to adjourn to an executive session at 5:40 pm.

Those voting for: Councilmembers Harkness, Thomas, Doss, Graeder and Whitlock. Motion carried.

After discussion, a motion was made by Councilmember Doss, seconded by Councilmember Thomas, to adjourn the regular meeting at 6:00 pm.

Those voting for: Councilmembers Harkness, Thomas, Doss, Graeder and Whitlock. Motion carried.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE – *Jim Cain, Scout Troup 648*

II. ANNOUNCEMENTS

1. AGENDA CHANGES (none)

2. UPCOMING EVENTS – www.duluthga.net/events

Duluth Live every Thursday, Friday 5-8pm, and Sunday 2-5pm.

Live music and various street performers in Parsons Alley and the Activity Lawn.

Fridays-N-Duluth every Friday May 26 through July 6pm-9pm. Town Green and Parsons Alley.

Duluth Farmers & Artisan Market every second and fourth Sunday March through November. 2pm-5pm. Town Green.

III. CEREMONIAL MATTERS

1. PROCLAMATION – GA MUNICIPAL COURT CLERKS WEEK {A}

The Mayor and Council presented a proclamation to Duluth Municipal Court Clerks Amanda Morrison and Brendon Villa pursuant to the Governor proclaiming June 5-9, 2023, as "Georgia Municipal Court Clerks Week."

2. DULUTH WILDCAT BASEBALL RECOGNITION

The Mayor and Council recognized the coaches and players for the 7- and 8-year-old Duluth Wildcat Baseball team. In this first year playing, this football team started playing baseball and dominating their season with a first-place tournament win and a top finalist finish in a large tournament. Mayor Harris presented a certificate of appreciation to Head Coach George Kent, Asst. Coaches Eric Lias and Coach Dro, and the team.

IV. MATTERS FROM CITIZENS

Michael Hopkins of 3379 Windsor Valley Court came forward requesting additional soap dispensers be placed in the town green bathrooms.

V. CONSENT AGENDA

1. APPROVAL OF APRIL 10TH /24TH MINUTES

2. 2023 AD VALOREM INSOLVENT LIST {B}

Per Chapter 2, Article 1, Sec 2- 4 of the Duluth Code, approval of this item grants insolvency status to property tax accounts determined to be uncollectible for years up through 2022 in the base amount of \$11,444.98 plus penalties and interest for a total of \$12,677.84. Business personal property accounts are considered insolvent only after every effort to collect them has been exhausted, which

includes processing late notices, returned mail investigation, cross checks with the Gwinnett County's Tax Assessors' real and personal property tax files, City and County Occupational Tax records, including onsite visits by the Licensing Compliance inspector.

3. AUTHORIZATION FOR POLICY RENEWAL – UNITED HEALTHCARE

As recommended during the annual employee benefits review as presented at the April 24 work session, approval of this item authorizes the renewal of the group health insurance plan with United Health Care (with a proposed 3.06% increase); dental plan with United (with 2.93% increase) and voluntary vision with no increase.

4. BUNTEN RD PARK WALKING TRAIL IMPROVEMENTS

The Bunten Road Park walking trail was built back in 1998 and is a popular public amenity for families, active adults, and bikers. The trail is ten feet wide and 1.1 mile long, built in Phase I of the park development and is showing signs of failure. Since the completion of Phase II in 1999, which includes the Activity Building, many areas of the park trail infrastructure have eroded due to environmental factors. Therefore, the Parks and Recreation Department is seeking approval for Columbia Engineering to conduct Survey/ Site Evaluation, Hydrology Study and Recommendations, Trail Design, Trail Improvements, Tree Plan, Stream Restoration, Structural Evaluation, and Bunten Road Park sidewalk design (1400 ft) that will connect the City residents to the park from Barkley Square and Parkview neighborhoods. Completion of this analysis will provide the City with the requirements to proceed with the reconstruction of the walking trail and the site improvements. As discussed, and prioritized during the FY24 budget work session, the project cost is estimated at \$198,000.00 with a 10% contingency for a total of \$217,000.00 with completion of the project approximately eight months from Notice to Proceed. Approval of this item authorizes staff to approve a task order for Columbia Engineering to conduct the above referenced analysis.

5. ORDINANCE TO AMEND FY23 BUDGET – BUNTEN TRAIL {C}

Approval of a task order with Columbia Engineering to improve the walking trail at Bunten Road Park also requires approval of a budget amendment. The cost of the task order is \$217,000, including a 10% contingency. Funding will come from interest earned on the 2017 SPLOST funds. Approval of this item approves ordinance BA-FY23-27 to add \$217,000 in 2017 SPLOST interest to Bunten Road Park - Park Areas - Professional Services line item, including associated transfers.

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

Voted For: Councilmembers Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.

VI. PUBLIC HEARINGS

1. ORDINANCE OF REZONING– CASE SU2023-003

{D}

Mayor Harris opened the public hearing and called forward City Manager James Riker to present. The purpose of this Special Use request (SU2023-003) from New Life Academy is to allow for the operation of a Gwinnett County Charter public charter/language school in the M-1 (Light Industrial) zoning district.

Mr. Riker summarized the existing conditions of the subject property as +/-3.73 acres located within the + /- 290 acres in the River Green Industrial Park. The area is comprised of construction services, engineering services, production facilities, laboratory testing facilities, infrastructure solutions, offices, and institutional uses. Located in the River Green Industrial Park Employment District, the Comprehensive Plan “FORWARD Duluth” envisions this character area to be a major employment district with large office and warehouse buildings. The Future Land Use Map (FLUM) classifies the subject property as commercial, retail and office.

The school’s projected enrollment for the 2023/2024 K-5 is 550 students, and 6-8 grades anticipated to be 250 students. 15 to 20% of these students participate in some after-school programs.

Mr. Riker pointed out in addition to the potential driveway and dual left turns, Gwinnett County has already implemented an adjustment of the signal timing.

City Engineer Margie Pozin came forward to discuss options such as a proposed driveway to ensure adequate sight distance. She said that staff will continue to work with the designers to improve current conditions by adding “Don’t Block the Box” pavement markings at intersections and driveways along Rivergreen Parkway as needed, and complete a “post signal timing adjustment” Traffic Impact Study. Staff is also investigating the potential to add a dedicated right turn lane from Rivergreen Parkway to Southbound PIB at the signal (in addition to the dual left conversion); as well as other solutions to be recommended from the designers.

The Planning Commission heard the item April 17, 2023, and recommend approval of SU2023-003 with the modification to conditions requiring a Traffic Impact Analysis. Staff recommends approval of SU2023-003 with the conditions as written in the staff report and removal of the added condition as there is a traffic analysis underway.

Mayor Harris called the applicant forward to answer questions.

Alphonsa Foward, Jr. Founder and CEO of New Life Academy of Excellence, 4725 River Green Parkway came forward on behalf of the owner/applicant James Alexander Bralley to address questions from the Mayor and Council regarding the expansion. He noted that the traffic study was requested and is underway.

Councilmember Whitlock asked if the hybrid version of traffic routing as presented would be a durable solution.

Mr. Foward confirmed.

Councilmember Graeder spoke of his concerns with the parking and unloading zones and asked the applicants to be very cognizant of their neighbors and prevent stacking on Corporate Way.

Mayor Harris called for questions/comments from the public.

Mark LeCraw of 3475 Corporate Way, Ste A came forward to speak with concerns regarding the stacking and flow of traffic. He does not see how the current plan would accommodate the projected student population and would like to see a revised traffic plan and suggested they work with the other schools in the area to stagger their hours.

Christian Olteanu also of 3475 Corporate Way, Ste A came forward to speak in opposition citing the following specific reasons:

1. Zoning. The current zoning M-1 (Light Industrial). Per UDC 205.16 M-1 The M-1 District is established to provide for light industrial uses such as assembling, wholesaling, warehousing and commercial services in areas that are located on or have ready access to a major thoroughfare, but whose proximity to residential or commercial districts makes it desirable to limit industrial operations and processes to those that are not objectionable by reason of the emission of noise, vibration, smoke, dust, gas, fumes, odors, or radiation and that do not create fire or explosion hazards or other objectionable conditions. This zoning classification does not allow for the proposed institutional use. However, Table 2-C of the UDC does allow for Private Schools: Personal Enrichment but the proposed use is for a public school. The same Table 2-C does allow for Public and Institutional Uses and does allow for Private Schools: Kindergarten, Elementary, Secondary, Junior College and Universities, but the proposed use is for a public school. It appears that there may be a conflict between the zoning and the proposed use. The proposed use is not allowed by zoning.
2. The Future Land Use Maps. At the time when the SU application was filed with the City, the proposed use for a public school was not in compliance with the FORWARDULUTH 2040. Institutional uses, such as a school, were not compatible with the Character Areas in the River Green Industrial Park.
3. On April 10, 2023, the City Council voted to approve a text amendment to remove the sentence "these uses are not compatible with the character of this district and should be prohibited". However, the next sentence "as units' turnover, staff will promote office and light industrial uses" is still in the code.

- a. Staff has recommended approval even though the sentence above did not allow for that.
 - b. To continue to approve schools will only dilute and diminish the original intent and use for this industrial park.
 - c. Generate additional conflicts, such as traffic and even the questionable appropriateness of these industrial or office buildings to be used for educational purposes, given the
 - d. almost complete lack of outdoor spaces.
 - e. Certain business owners have expressed their concern and stated that they may be relocating their business elsewhere if they feel any impact from the new traffic patterns.
4. Per the UDC, Art. 11. Procedures and Permits, under Sec. 1105 Special Use Considerations, at item (a)(6) it is stated that the special use would be consistent with the need of the neighborhood or the community, be compatible with the neighborhood and would not be against the overall objective of the Comprehensive Plan, which we believe that is not the case.

The minimum requirements for a special use approval are, among other things:

(b)(2) In the review process, particular emphasis shall be given to the evaluation of the characteristics of the proposed use in relationship to its immediate neighborhood and the compatibility of the proposed use with its neighborhood.

(b)(3) in the approval process for a special use application, the City Council shall consider the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area and shall consider the potential adverse impacts on the surrounding area, especially in regards but not limited to traffic and compatibility of land use activities.

Being no further comments, Mayor Harris closed the public hearing and called for a motion.

A motion was made by Councilmember Whitlock, seconded by Councilmember Thomas to approve ordinance O2023-16 for Case SU2023-003 as presented.

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

2. ORDINANCE OF REZONING– CASE SU2023-002

{E}

Mayor Harris opened the public hearing and called City Manager James Riker to present.

The purpose of this Special Use request (SU2023-002) from New Life Academy is to amend Conditional Use CU2021-002 to allow for the continued use of Modular Classrooms at the current facility within the M-1 District (Light Industrial District).

The subject property totals +/- 5.616 acres zoned M-1 and is within the +/- 290 acres River Green Industrial Park. The Special Use approval is to operate a charter language school within the M-1 District. Mr. Riker pointed out the Character Area of the property, being in the River Green Employment District. FORWARD Duluth envisions this character area to be a major employment district with large office and warehouse buildings. The Future Land Use Map (FLUM) classifies the subject property as commercial, retail, and office.

The Planning Commission heard the item April 3, 2023, and recommend approval of SU2023-002 with conditions.

Mayor Harris called forward the applicant.

Alfonza Foward Jr., CEO and founder of the New Life Academy, came forward.

Councilmember Graeder questioned if the module units would be moved before the next school year. If they are expanding and moving, why the modular units would still be necessary for the next two years.

Mr. Foward said the modular units were donated by the Gwinnett County Schools and the cost to have them moved would be costly. The units will not be used for classrooms but may be used for meetings, not for classrooms.

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

A motion was made by Councilmember Harkness, seconded by Councilmember Graeder, to approve ordinance O2023-13 for Case SU2023-002 as presented.

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

3. FY24 BUDGET – FIRST PUBLIC HEARING

{F}

Mayor Harris opened the public hearing.

Per the State of Georgia, the Mayor and Council to hold a public hearing to receive public comments on the proposed FY 2024 Annual Operating and Capital Projects Budget. Prior to this public hearing, staff and Council reviewed the proposed FY 2024 budget on April 17 and again discussed updates on April 24.

City Manager James Riker presented the strategic vision statements of the City and the proposed balanced FY 2024 budget, highlighting revenues, expenditures, and Capital projects. He reviewed the General Fund Budget Comparison and Capital Reserves.

Asst. City Manager/Finance Ken Sakmar presented the details behind the revenue and expenditure actuals and projections. Presentation is attached for reference.

A second public hearing will be held on Monday June 12, 2023 at the regularly scheduled meeting of the Mayor and Council. Following the second public hearing an ordinance adopting the FY 2024 budget will be presented for consideration.

The Mayor called for discussion from Council.

Councilmember Graeder noted that revenue figures are rising due to increased assessments and adding additional housing inventory, but those factors also increase the city's costs to cover new or added services. For example, the improvements to Rogers Bridge Park will result in the need for additional staff to manage that location. He also noted that the revenue from traffic enforcement school zone cameras has been decreasing due to improved compliance, which is considered successful as the goal is to improve safety conditions.

Councilmember Harkness also noted that, as of next May, the purple bag trash service will be eliminated and replaced with curbside pickup that is funded by the city as part of residential property taxes. He noted that this is an example of providing more service without changing the tax millage rate.

Mayor Harris called for questions/comments from the public.

Hearing none, Mayor Harris closed the public hearing and announced the second public hearing on June 12, 2023. No motion was necessary at this time.

VII. NEW BUSINESS

1. AWARD OF BID – ROADWAY CRACK SEALING

{G}

The Mayor and Council considered awarding a bid for Crack Sealing project on various roads within the City of Duluth. Crack sealing is proven to be one of the lowest cost pavement preservation treatments available and adds years to the life of pavement. The city has over 300 streets to maintain; this project will provide for crack sealing of 59 streets.

The city received two (2) bids for this project, as follows:

<u>Company</u>	<u>Bid Total</u>
Remac, Inc.	\$102,431.95
Wall Asphalt Services, Inc.	\$169,958.90

Public Works Director Audrey Turner explained that, following a review and analysis of each bid and reference checks by Keck and Wood Engineering, staff recommends awarding the contract to Remac, Inc. with a contingency included in an amount not to exceed \$112,675.19. Funds will come from 2017 SPLOST.

A motion was made by Councilmember Whitlock, seconded by Councilmember Graeder, to approve awarding the Crack Sealing Project to Remac, Inc. in an amount not to exceed \$112,675.19 as presented and authorize the Mayor or City Manager to execute the contract as approved by the City Attorney.

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

2. ORDINANCE TO AMEND THE FY23 BUDGET – CRACK SEAL {H}

Public Works Director Audrey Turner requested approval of a bid award for the crack sealing of 59 streets in the City. As Council approved awarding of the bid to Remac, Inc for \$112,675.19, including a 10% contingency, staff is requesting approval of ordinance BA-FY23-28 to fund the award.

Ordinance BA-FY23-28 would add \$112,700 in unallocated 2017 SPLOST funds to Transportation/Infrastructure Improvements - Paved Streets - Repairs & Maintenance - Streets/Sidewalks line item including associated transfers.

A motion was made by Councilmember Harkness, seconded by Councilmember Thomas, to approve ordinance BA-FY23-28 as presented.

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

3. LARGE SCALE PLAYABLE ART CONTRACT {}

The Mayor and Council considered awarding the construction bid for the Taylor Park playable art piece.

City Manager James Riker came forward to present. Last August, staff issued a Request for Qualifications (RFQ) relating to construction of playable art. Three companies provided proposals. The team of ID Sculpture and Bliss Products ranked the highest of the three proposals. In December of last year, council authorized a design contract with ID Sculpture to develop a final concept for the playable art piece.

Staff has been working with the selected contractor to refine the design, update the site layout and develop a construction schedule. A contract covering the design, construction and installation of the art piece and supporting site improvements was presented for review.

Councilmember Harkness questioned the site plan and existing tree health.

Five trees will need to be removed to install the piece. However, an arborist has already evaluated the trees several years ago, which have been determined to be in a decaying state and potentially unsafe for public gatherings.

Councilmember Harkness noted that while he was in full support of the art project and felt that it was a unique and photographic element, he did not realize that live trees would have to be removed and therefore does not support the location for this project. He felt that a previous opinion was not a recent "official report" on the status of each tree.

Councilmember Whitlock also walked the area and felt that the one tree providing the most shade was in the poorest condition. The right kind of trees will be planted to provide future shade.

Councilmember Graeder said he normally does not like to see trees removed but agreed for the safety of citizens and property. He referenced a recent tree incident on Hwy 120 near his home that fell across the road and seriously injured a driver.

Councilmember Thomas said that the location was specified in the RFP with access to utilities, etc. and moving it would require a lot more work and potential expense. The right kind of trees should be planted to provide natural shade in the future.

Councilmember Doss was pleased that staff continued to work with the designer as he feels the current rendering of the art was much improved over the initial sketches.

A motion was made by Councilmember Doss, seconded by Councilmember Whitlock, to approve the contract with Bliss Products for construction and installation of the playable art piece and authorize the Mayor or City Manager to execute said contract in the amount of \$486,619.

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

4. ORDINANCE TO AMEND BUDGET – 175,000 – PLAYABLE ART {J}

Since council authorized awarding the contract to Bliss Products for the construction and installation of a playable art piece in Taylor Park, additional General Funds of \$175,000 are needed for the installation of retaining walls, a cement art pad, shade sails and completion of the contract.

Staff requested approval of a budget amendment to add \$175,000 in General Funds to the project, including associated transfers. Approval of this item authorizes ordinance BA-FY23-25 to add \$175,000 to the Urban Redevelopment - Special Recreational Facilities - Site Improvements line item.

A motion was made by Councilmember Graeder, seconded by Councilmember Thomas, to approve ordinance BA-FY23-25 as presented.

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

VIII. MATTERS FROM DEPT HEADS/CITY ATTORNEY

1. ORD TO AMEND FY23 BUDGET – \$77,000 HOTEL/MOTEL EXCISE {K}

The City began receiving Hotel Motel Excise Tax revenue in May 2021 after the opening of the first hotel in downtown Duluth. In addition, excise taxes are now collected from the various web based rental sites. Based on current year-to-date activity, revenue and expenditure in the fund will exceed budgeted amounts for FY23. For this reason, staff is requesting \$77,000 be added to Hotel/Motel Fund - Hotel Motel Excise Tax revenue and the following expenditures be added to Hotel/Motel Tax Fund - Tourism - Transfer to General Fund \$58,000 and Payments to Other Agencies \$19,000. Approval of this item approves ordinance BA-FY23-24 to amend the FY23 budget as presented.

State guidelines for accepting these funds dictate that 60% is unrestricted, but the other 40% must be spent on tourism, convention, trade. Therefore, the city contracts with the Gwinnett Convention & Visitors Bureau through Explore Gwinnett.

A motion was made by Councilmember Whitlock, seconded by Councilmember Harkness, to approve ordinance BA-FY23-24 as presented.

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

2. ORD TO AMEND FY23 BUDGET – \$696,400 – 2022 LMIG PAVING {L}

In September 2022, Council approved a modification to the paving contract with Stewart Brothers to add back streets on the alternate list which were removed from the original bid. The alternate street are Northgate Lane, Windsor Valley Court, Windsor Gate Run and Castlemaine Drive.

At the time of the bid award and contract modification, funding of the cost of the alternate streets of \$696,393.47, including a 10% contingency, was undetermined. This was due to a staff request to wait until the end of the 2017 SPLOST collections and a final allocation of funds could be made to the SPLOST Transportation category, which paving is a component of.

Now that the 2017 SPLOST collections have ended, staff is requesting Council consider approval of ordinance BA-FY23-26 to add \$696,400 in unallocated 2017 SPLOST Transportation funds to Transportation/Infrastructure Improvements - Paved Streets - Repairs & Maintenance - Streets/Sidewalks line item including associated transfers.

A motion was made by Councilmember Whitlock, seconded by Councilmember Doss, to approve ordinance BA-FY23-26 as presented.

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

IX. MATTERS FROM COUNCIL

Councilmember Whitlock congratulated Councilmember Thomas for completing the Leadership Gwinnett program.

Councilmember Graeder expressed appreciation for the past weekend's events. He asked about the Rogers Bridge opening/ribbon cutting schedule, and staff responded it would potentially happen in July. He also asked for an update on construction related to moving the Public Safety wall. Staff responded that it is held up by the contractor.

X. MATTERS FROM CITY MANAGER

Town Green sod must be reinstalled in several places due to the usage during recent events. There will be two solid weeks to get it established before the first food truck event.

XI. 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 Harkness, seconded by Councilmember Thomas, to adjourn to executive session at 7:27 p.m.

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

After the discussion, a motion was made by Councilmember Whitlock, seconded by Councilmember Graeder, to return to regular session at 8:25 p.m.

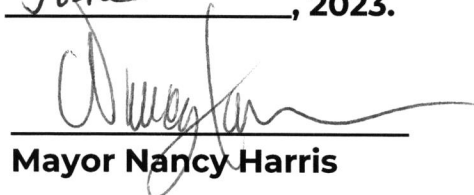
Voting for: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.

XII. ADJOURNMENT

A motion was made by Councilmember Thomas, seconded by Councilmember Whitlock, to adjourn at 8:25 pm.

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

Approved this 12th day of June, 2023.



Mayor Nancy Harris

ATTEST:



Deputy City Clerk, Kristin McGregor