



**MINUTES OF THE  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
JUNE 12, 2023**

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

**ABSENT:** Councilmember Doss

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 5:36 p.m.**

**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 Thomas, seconded by Councilmember Graeder, to adjourn to executive session at 5:36 p.m.**

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

**After the discussion, a motion was made by Councilmember Harkness, seconded by Councilmember Whitlock, to return to regular session at 5:47 p.m.**

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

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

## II. ANNOUNCEMENTS

1. AGENDA CHANGES (none)
2. COMMUNITY CLEANUP DAY

Public Works Director Audrey Turner came forward to report on the annual community clean-up event and share pictures from the day. She thanked those who volunteered and the police for their support, and said the event was a huge success.

3. UPCOMING EVENTS – [www.duluthga.net/events](http://www.duluthga.net/events)

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

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.

Night at the Red Clay featuring Fish Sticks Improv Comedy Thursday, June 22 6:30pm. Red Clay Music Foundry.

Viva Las Duluth, Saturday, July 8. 6:00pm-9:00pm. Duluth Town Green and Amphitheater.

## III. CONSENT AGENDA

1. APPROVAL OF MAY 8<sup>TH</sup> & 22<sup>ND</sup> MINUTES
2. FISCAL YEAR 2022 AUDIT

{A}

The FY22 audit was presented to the Mayor and Council at the May 22 work session by Josh Carroll of Mauldin & Jenkins. The audit report includes the city as a whole, including the Downtown Development Authority and Urban Redevelopment Agency. The audit confirms that the financial statements were prepared in accordance with generally accepted accounting principles (GAAP). The auditor issued an unqualified or "clean" opinion; in the independent auditor's judgement the financial statements are fairly and appropriately presented and in compliance with GAAP. Approval of this item accepts the report as presented.

3. RESOLUTION OF APPOINTMENT –PLANNING DIRECTOR

{B}

Per Article 13 Section 1301, of the Unified Development Code, the Mayor and Council shall appoint the Director of Planning and Development. Approval of resolution R2023-08 appoints Director of Community Development and Engineering Margie Pozin as Director of Planning and Development, effective June 5, 2023.

#### 4. APPROVAL OF TITLE VI ANNUAL REPORT

{C}

As discussed during the May 22 work session, the City is required to submit annual reports to the Georgia Department of Transportation (GDOT) for the Title VI (non-discrimination) program each year. As such, approval of this item authorizes the Mayor to sign the updated forms for submission prior to June 30, 2023.

#### 5. AWARD OF BID – 2023 LMIG PAVING

{D}

Approval of this item awards the 2023 LMIG Paving and Full Depth Reclamation bid to Stewart Brothers in an amount not to exceed \$1,867,899.17. Total includes base bid of \$1,357,768.19 and Alternate One bid of \$340,321.97 and 10% contingency. Base bid funds five streets (Barkley Square Drive, Canter Way, Winsley Place, Chattawood Drive and Timberridge Trail), Alternate One funds three streets (Gate House Lane, Hawks Nest Court, and White Owl Court).

#### 6. ORDINANCE TO AMEND THE BUDGET - \$1,900,000 – LMIG

{E}

Based on council approval to award the 2023 LMIG Paving and Full Depth Reclamation contract to Stewart Brothers, approval of this item approves budget amendment BA-FY23-29 to add \$1,900,000 in unallocated 2017 SPLOST Transportation funds to Transportation/Infrastructure Improvements - Paved Streets - Repairs & Maintenance - Streets/Sidewalks line item, including associated transfers.

#### 7. AWARD OF BID – 2023 HDMB PAVEMENT PRESERVATION

{F}

Approval of this item awards the 2023 HDMB (High Density Mineral Bond) Pavement Preservation Bid to Holbrook Asphalt in an amount not to exceed \$244,624.16. Total includes bid of \$222,385.60 and 10% contingency for the treatment of 18 streets.

#### 8. ORDINANCE TO AMEND THE BUDGET - \$250,000 – HDMB

{G}

Based on the bid award of the 2023 HDMB Pavement Preservation Bid to Holbrook Asphalt, approval of this item approves budget amendment BA-FY23-30 to add \$250,000 in unallocated 2017 SPLOST Transportation Funds to the Transportation/Infrastructure Improvements - Paved Streets - Repairs & Maintenance - Streets/Sidewalks line item, including associated transfers.

Mayor Harris highlighted the favorable audit report results. Councilmember Graeder noted the consent items regarding street paving and asked Public Works Director Audrey Turner to give a brief overview.

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

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

#### IV. PUBLIC HEARINGS

##### 1. ORDINANCE OF SPECIAL USE – SU2023-004 – MOORING PLAZA {H}

Mayor Harris opened the public hearing.

City Manager James Riker came forward to present. He explained that the purpose of this Special Use request (SU2023-004) is to allow for the operation of a gas station in the HC-R (Highway Commercial - Retail) District. The subject property contains a 20,000sf commercial building on 2.6 acres located at 2856 Buford Highway in the Mooring Plaza, tax parcel 7202 188. The gas station will occupy Suite 9 of the plaza.

Mr. Riker showed the site plan and discussed the considerations for the site. The Planning Commission recommended approval with conditions regarding the detention pond as well as parking lot paving. As the property was previously operating as a gas station, it adheres to the Comprehensive Plan and is compatible with surrounding uses.

The Mayor called for discussion from Council.

Councilmember Harkness asked whether it would remain a Marathon, and how the City would prevent unlawful gaming in back rooms. He also asked if the tenant was going to have cameras, and recommended they contact the Duluth Police Department for details on how the city can help with monitoring.

Councilmember Graeder said he noted deficiencies in the stormwater/detention report, and wanted to ensure the next inspection/report cycle includes gas station use since that triggers other items to review in the NPDES inspections including HVPS once the gas station is open and operational.

Mayor Harris asked what portion of the parking lot would be repaved and who would be responsible for landscaping.

Mayor Harris called the applicant forward to answer Council's questions.

David Chong of 4463 Faircroft Carriage, Suwanee came forward on behalf of his parents, who are the property owners. He noted that plans are well underway for the needed repairs, and they are in the final stages of Engineering review working with Kevin McInturff. They are making progress on the paving requirements but those are weather dependent. His parents have owned the property for six years and very proud of being part of the City of Duluth. He said they plan to mill and resurface the whole parking lot.

David Darusha of 2857 Bridgeview Drive, Gainesville GA came forward representing the tenant. He reported that it was going to be a Citgo gas station and it would take 30-60 days to get everything finalized and get the business license. They have a long term lease and are planning to invest in quality improvements. They will not have any

gaming machines and there is a landscape company to maintain the steep grassy areas.

The Mayor 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 Thomas, seconded by Councilmember Harkness, to approve ordinance O2023-17 as presented.**

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

2. ORDINANCE TO AMEND THE UDC – SECTIONS 1103-1104, 1206-1208 {}

Mayor Harris opened the public hearing. City Attorney Stephen Pereira presented.

The purpose of this Text Amendment (TA2023-002) is to ensure local zoning procedures are following state statute, which was enacted in 2022. Sections 1103-1104, 1206-1208 are affected, regarding notice and hearing requirements for proposed land use changes.

Mr. Pereira noted that most are simple changes, but section 1103.06 is lengthy and substantive, regarding special public hearings for proposed multi-family uses. In summary, this section is pertaining to widespread rezoning of residential areas. He explained that if the City is going to initiate a rezoning from residential to multi family, there would be heightened notice and hearing requirements. The other amendments define quasi-judicial vs. zoning decisions.

The Mayor called for discussion from Council.

Councilmember Graeder clarified that two public hearings would be required in front of the Planning Commission, followed by two City Council hearings for the multi-family. Essentially, the process would take four months due to this schedule.

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

**A motion was made by Councilmember Harkness, seconded by Councilmember Whitlock, to approve ordinance O2023-18 as presented.**

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

3. ORDINANCE TO ADOPT FISCAL YEAR 2024 BUDGET {}

Mayor Harris opened the public hearing. City Manager James Riker came forward to present.

After several budget work sessions in April, the first public hearing was held before the Mayor and Council on May 8th. No public comments were received at that time.

Mr. Riker presented the strategic vision statements of the City and the proposed balanced FY 2024 budget, which is \$41,443,162. He gave a budget comparison for the General Fund and explained that the conservative approach used for projections means that revenues are based on long term trends and expenditures are projected without discounting. For 2024, the funds required to balance the budget are \$809,872.

Mr. Riker summarized the revenues; property taxes make up the largest portion at 42%. On the expenditure side, the largest item is salaries. He reviewed the expenditures by department and said the intent is to keep the tax millage rate the same at 6.5651 mills.

Asst. City Manager Ken Sakmar came forward to cover the highlights for this year's budget. Some of the notable items:

- Property tax revenue increased by \$1,450,000.
- Motor Vehicle Title Ad Valorem or TAVT revenue increased by \$267,000
- Alcohol Beverage/Mixed Drink Excise Tax revenue increased by \$55,000
- Insurance Premium Tax revenue increased by \$500,000
- Building Plan Review revenue increased by \$157,423
- Investment Income (Money Market and Certificates of Deposit) revenue increased \$409,000
- Intergovernmental (new E-911 Agreement) revenue decreased \$59,941
- Photo Enforcement revenue decreased \$290,000
- Transfer from Hotel/Motel Fund increased by \$48,656
- Transfer from Police Technology Fund decreased by \$140,000
- Draft budget includes funding of \$36,235 for the upcoming November council elections including the regular election and potential run-off election.
- The draft budget includes \$74,000 for an enhanced cyber security preparedness program, password management and 2 factor authentication.
- In the Public Works Department – Solid Waste Disposal line item the draft budget includes \$134,000 for the new solid waste contract anticipated to take effect May 2024. The contract will be fully implemented in the FY25 budget.

Additionally, he discussed and explained other funds as follows:

Public Art Fund - Includes a transfer of \$35,000 from the General Fund for future public art projects.

Hotel Excise Tax Fund - Revenues and expenditures were increased to account for recent activity in the fund based on historical data.

Rental Motor Vehicle Fund - Fund revenue increase based this excise tax being collected for an additional car rental provider.

Stormwater Utility Fund - Continues to receive funding based on an annual assessment which is dedicated to the maintenance and construction of the stormwater infrastructure and ongoing inspections.



Council had no further questions.

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

**A motion was made by Councilmember Thomas, seconded by Councilmember Whitlock, to approve ordinance O2023-19 adopting the fiscal year 2024 budget as presented.**

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

## **V. NEW BUSINESS**

### **1. BID AWARD – ROGERS BRIDGE PARK TRAILHEAD, PHASE 2 {K}**

Community Development/Engineering Director Margie Pozin explained the request. On May 16, 2023, four proposal packages were received by the City for the project Rogers Bridge Park Trailhead - Phase 2 (CP23-01). The packages were evaluated by a team of three independent evaluators and scored based on cost (65%), written approach to completing the work (25%), and resumes/references (10%). The evaluation resulted in the following scores:

IP Construction	70 points
Magnum Construction, LLC	76 points
Astra Group	81 points
Tri Scapes, Inc	93 points

Tri Scapes was the highest scoring proposal, with a cost of \$3,106,577.65. Therefore, Staff recommends awarding Rogers Bridge Park Trailhead - Phase 2 project to Tri-Scapes as presented.

The goal is to start immediately after the bridge ribbon cutting in early/mid-July, and have one of the two parking lots open within 60 days.

**A motion was made by Councilmember Whitlock, seconded by Councilmember Graeder, to award the Rogers Bridge Park Trailhead - Phase 2 Project to Tri-Scapes in the amount of \$3,106,577.65 and further authorize the City Manager to execute a city-attorney approved contract.**

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

### **2. ORDINANCE TO AMEND FY23 BUDGET – ROGERS BR TRAILHEAD {L}**

As Council approved awarding of the Rogers Bridge Park Trailhead - Phase 2 Project to Tri Scapes, Inc, in the amount of \$3,106,577.65, Asst. City Manager Ken Sakmar requested a budget amendment to cover the construction phase as follows:

Construction (Tri Scapes) -	\$3,106,577.65
Contingency 20% -	\$ 621,315.53
Materials Testing & Inspection Services & Construction Administration -	\$ 72,106.82
Total Budget	\$3,800,000

There are different funding sources for this project, but they are all SPLOST related. Approval of ordinance BA-FY23-31 adds \$862,603.25 in unallocated 2017 Parking Facilities funds, \$640,921 in unallocated 2017 Transportation funds, and \$2,296,475.75 in unallocated 2023 Recreation Facilities & Equipment funds to Rogers Bridge Park - Park Areas - Parking Lot - Professional Services line item \$72,200 and Site Improvements line item \$3,727,800 including associated transfers.

**A motion was made by Councilmember Harkness, seconded by Councilmember Thomas, to approve ordinance BA-FY23-31 as presented.**

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

3. PURCHASE AND SALE AGREEMENT- 3542 NORTH STREET {M}

Staff has negotiated a Purchase and Sale Agreement (PSA) in the amount of \$449,000 for acquisition of 3542 North Street from the owners, Timothy Logan Higgins (AKA Timothy Logan Allen) and Harriet Higgins in her capacity as Executor of the Estate of Marilyn Allen . The PSA includes a 90 day lease back period by the owners following closing.

City Manager James Riker explained that the acquisition is affiliated with Main St Phase II Enhanced Sidewalk project.

**A motion was made by Councilmember Thomas, seconded by Councilmember Whitlock, to approve the purchase and sale agreement with Timothy Logan Higgins (AKA Timothy Logan Allen) and Harriet Higgins, individually and in her capacity as Executor of the Estate of Marilyn Allen, for acquisition of 3542 North Street, Duluth Georgia, 30096 also known as tax parcel number 7202-042 for an amount of \$449,000 as presented.**

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

**VI. MATTERS FROM DEPT HEADS/CITY ATTORNEY**

1. ORDINANCE TO AMEND FY23 BUDGET – WORKERS' COMP {N}

The City's Workers Compensation Fund continues to experience some large claims expenditures as a result of a significant claim involving a police officer. Because the



City has met its maximum out of pocket expenditure of \$650,000 for this claim, we are now reimbursed by our excess workers compensation carrier, Midwest Employers Casualty, for our ongoing expenditures. Staff will continue to seek reimbursement from the carrier; however the Workers Compensation Fund must pay the claims prior to seeking reimbursement. For this reason staff is requesting approval of ordinance BA-FY23-32 to add \$225,000 to Workers Compensation - Insurance Claims Reimbursements line item and \$225,000 to Workers Compensation - Risk Management - Claims Police Uniform line item.

**A motion was made by Councilmember Whitlock, seconded by Councilmember Graeder, to approve ordinance BA-FY23-32 as presented.**

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

## **VII. MATTERS FROM COUNCIL**

Councilmember Graeder expressed appreciation for the weekend events.

Councilmember Thomas expressed condolences to the family of Alana Moss for the loss of her husband Scott, who have both been very active volunteers for the city.

## **VIII. MATTERS FROM CITY MANAGER**

### **1. ENCORE @ ROGERS BRIDGE PARK – PROPERTY DONATION {O}**

Mr. Riker reported that the City Attorney has been working diligently with Encore developer Ashton Woods, who officially dedicated the promised eight acres of riverfront property becoming part of Rogers Bridge Park.

### **2. DRAG RACING**

Mr. Riker noted some of the NextDoor social media concerns regarding drag racing etc. The Duluth Police Department has a Zero tolerance policy and have posted on all our social media platforms to that effect.

## **IX. ADJOURNMENT**

**A motion was made by Councilmember Whitlock, seconded by Councilmember Graeder, to adjourn at 7:00 pm.**

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

Approved this 10 day of July, 2023.

  
\_\_\_\_\_  
Mayor Nancy Harris

ATTEST:

  
\_\_\_\_\_  
Asst. City Mgr./City Clerk, Teresa Lynn