The leaders and staff of the City of Duluth are dedicated to ensuring that Duluth is:
an Attractive Destination, a Quality Community, a World Class Government,
and promotes a Sustainable Economic Environment.

PRESENT: Mayor Harris, Councilmembers Bomar, Carden, Jones, Kelkenberg and Whitlock, City Manager, Department Directors, City Attorney

A work session was held prior to the regular scheduled meeting to allow the elected official to discuss this evening’s agenda items.

Mayor Harris called the meeting to order at 6:00pm and called for a motion to enter into an Executive Session for the purpose to discuss Real Estate, Pending/Potential Litigation, Personnel.

I. EXECUTIVE SESSION

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

Those voting for: Councilmembers Bomar, Carden, Jones, Kelkenberg and Whitlock

Motion carried.

After the discussion, a motion was made by Councilmember Kelkenberg, seconded by Councilmember Carden to return to regular session at 5:55pm.

Those voting for: Councilmembers Bomar, Carden, Jones, Kelkenberg and Whitlock

Motion carried.

PLEDGE OF ALLEGIANCE

II. ANNOUNCEMENTS

1. NO AGENDA CHANGES

2. UPCOMING EVENTS

“Thursday Live” - live music in Parsons Alley and on Main Street every Thursday from 6-9pm, June-August.
“Fridays-N-Duluth” - presents Food Truck Friday, July 12
“Whatever Floats Your Boat” - July 20th
“Back to School Bubblepalooza” - July 24th
“Fridays-N-Duluth presents Block Party on Main” - featuring Glow Night and Fly Betty Band, July 26th
“Summer Stage Concert” - featuring The Petty Breakers, July 27th

Councilmember Kelkenberg asked if Aquaman had been rescheduled. Staff reported that a date has not been set.

**III. CEREMONIAL MATTER**

1. **RECOGNITION – AMAZING ENTREPRENEUR**

   Councilmember Bomar presented special recognition to Jaime Stepic, owner of Spool School for winning the 8th annual “Amazing Entrepreneur Contest” at the 2019 Demo Day event held at the Gwinnett Chamber of Commerce. Spool School, located in downtown Duluth, is an imaginative sewing business featuring sewing classes, camps, and parties sharing the art of sewing with all ages. The annual contest encourages and showcases the creation of startups and viable enterprises while engaging the region’s support services. It requires participants to submit a business plan summary for judging, with finalists earning the opportunity to present before a panel of leading business professionals.

**IV. CONSENT AGENDA**

1. **APPROVAL OF JUNE 10TH MINUTES**

2. **RESOLUTION – CALL FOR 2019 MUNICIPAL ELECTION**

   Approval of this item approves a resolution (R-2019-11) setting qualifying times, dates and other matters relevant for the November 5, 2019 City of Duluth General Election for the purpose to elect a Mayor currently held by Nancy Harris and two members of Council. Post 4 currently held by Kelvin J. "Kelly" Kelkenberg and Post 5 currently held by Greg Whitlock.

3. **PARSONS ALLEY PATIO LEASE AGREEMENTS**

   Patio spaces have been surveyed and marked for each restaurant site in the Parsons Alley project: Falling Rabbit, Maple Street, Noona, Simply Done, Nacho Daddy, Good Word, Local on North and Sweet Octopus. Assignable lease agreements have been created for each individual space. Leases have updated and include price escalation clauses. Approval of this item authorizes the City Manager to execute eight (8) lease agreements for Parsons Alley.

4. **ORDINANCE TO AMEND FY19 BUDGET - $252,997.66 – LMIG GRANT FUNDS**

   Approval of this item accepts $252,997.66 as the City’s share of the FY 2019 LMIG (Local Maintenance & Improvement Grant) grant from the Georgia Department of Transportation (GDOT). LMIG grant funds are generated from the state motor fuel tax which is set each year by the Georgia General Assembly. The grant is for road improvement projects such as street resurfacing and requires 30% matching funds of $75,899.30, which will come from 2017 SPLOST Transportation funds. A project list was submitted and approved by GDOT. Approval of this item also approves an ordinance to amend the budget (BA-FY19-35) to add the grant funds to the Transportation/Infrastructure Improvements capital project (ST-32).

5. **ORDINANCE TO AMEND FY19 BUDGET - $157,000 – POLICE CAMERAS/RADIOS**

   Police department staff is currently working to install LPR (License Plate Recognition) cameras throughout the City as part of Phase I of the Citywide camera program. In order to closeout the equipment purchases for the
current year, staff is requesting $9,428.48 in 2017 SPLOST funds. The police department has also received a quote from Motorola Solutions for $140,571.52 for the purchase of new portable radios for our officers. This purchase will also be funded with 2017 SPLOST funds. Approval of this item (BA-FY19-36) adds $150,000 in unallocated 2017 SPLOST Public Safety funds to the Police Capital Projects - Police - Police Equipment line item.

6. ORDINANCE TO AMEND FY19 BUDGET - $1,840 – SR 120 PROJECT EXPENDITURE

Recently, staff received an invoice from Norfolk Southern in the amount of $1,839.38 for flagging services in June 2016 in connection with the realignment of State Route 120. Previously, staff had closed the realignment portion of the State Route 120 capital project, assuming all expenditures had been paid. In order to pay the Norfolk Southern invoice, staff is requesting the capital project be re-opened and funds be added to the projects. Approval of this item (BA-FY19-37) adds $1,840 in unallocated 2017 SPLOST Transportation funds to the SR 120 Realignment - Paved Streets - Infrastructure line item.

7. ORDINANCE TO AMEND FY20 BUDGET – 14,052 – CITY HALL/FESTIVAL CENTER WORK

Mayor and Council to consider approval of a budget amendment to carry-forward $14,052 in FY 2019 budgeted funds to the FY 2020 fiscal year for purchase obligations committed to in the current year, but due to the technical nature of the purchases, can not be invoiced in the current year. Staff is requesting funds be carried-forward for the following purchases:

1. City Clerk's Department - replacement of the City Hall Main Street doors
2. Public Information/Marketing Department - key-card access system for the Festival Center

Approval of this item (BA-FY20-01) adds general funds to the following FY 2020 line items:
1. $10,052 to City Clerk - Custodial/Building Maint. - Building Maintenance
2. $4,000 to Public Information/Marketing - Festival Center - Small Equipment

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

Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg and Whitlock

Motion carried.

V. PUBLIC HEARING

1. ORDINANCE OF MODIFIED ZONING – CENTURY COMMUNITIES  Z2019-002

Mayor Harris opened the public hearing to consider a request (Z2019-002) and called forward Planning Director Bill Aiken to present.

Mr. Aiken came forward to summarize the request (Z2019-002) by Century Communities of Georgia, LLC to modify the conditions of zoning approval on a +/- 8.87 acre property located at 3346 Buford Highway in Duluth, Georgia 30096 (tax parcel R6292 004). Century Communities of Georgia, LLC are the developers, builder, and owner of Sherwood Crossing. The property is currently zoned Duluth PUD (Planned Unit Development District) and will not change. The applicant has proposed to modify conditions of approval from Ordinance Z2017-004 in order to allow for the streets, utilities and infrastructures within the neighborhood to be private and for the lot lines to be zero lot lines for the townhomes.

Mr. Aiken described the location and surrounding uses. The first request is in regards to the zero lot lines. The applicant originally wanted the townhomes to have private front and backyards however after researching
townhomes sites in the area decided that zero lot lines are preferred in the area. This also then gives the HOA the responsibility of the exterior maintenance and landscaping. The original condition required 2,000 for front loaded and 1,500 for the rear loaded. The applicant is requesting that this condition be struck and zero lot lines be applied similar to Parc at Parsons.

The second request is to have the public streets become private. By using zoning from last year, the future land use map of the comprehensive plan and the Buford Hwy study the applicant has done a good job of incorporating what the City had envisioned for the property and increasing connectivity to future development in the area. As the applicant has set up the HOA, it was determined from a long term maintenance standpoint that it would be better to have all the streets in the development private instead of public since the alley ways are private. The applicant will provide the City an access easement for future connectivity similar to the Cresswell subdivision. Staff has included a condition that owner and any future owners acknowledge that the final plot has private streets and that the City of Duluth has no responsibility for maintenance of those private streets.

Mr. Aiken acknowledged that the Planning Commission recommended approval of Case Z2019-002 at the June 17, 2019 hearing and staff recommends approval of Case Z2019-002 with conditions as detailed in the attached staff report.

Mayor Harris called for discussion from Council.

Councilmember Kelkenberg asked how the City is going to handle traffic with future tie-in roads from Buford Hwy and Davenport. Staff reported that the applicant will incorporate traffic calming measures to discourage cut through traffic and speeding.

Councilmember Whitlock asked about the benefit for adjacent properties to tie into the development. Staff reported that some of the surrounding property would be suitable for residential use and tie-ins would be beneficial such as at Cresswell I and 2. This property is not for sale currently however in the future if there is a rezoning request the City could include a condition to tie-in. If there is not a rezoning request the City cannot require the owner to tie-in.

Councilmember Bomar expressed concern regarding older developments with private streets that were left unmaintained. She asked what the City is doing to ensure that this does not happen in the Sherwood Crossing development. The applicant has stated that a portion of money from the closing fees will be designated for road maintenance. There will also be an acknowledgement in the deeds that state that the streets are private and the maintenance is the responsibility of the HOA.

Councilmember Carden asked what the options are if Council denies the request. Staff reported that the applicant would have to revise the covenants and find an option that is fair and equitable for homeowners.

Mayor Harris called for forward the applicant.

Jeffery Reed representing Century Communities came forward and reported that zero lot lines and private streets are better for long term maintenance and landscaping. There will be a Declaration designating that the HOA is responsible for the cost of the maintenance and that they budget accordingly. The HOA will set up a capitol reserve fund only to be used for aforementioned maintenance.

Mayor Harris asked why they changed from public to private streets. Mr. Reed explained that it was an oversight on his part and they need to have the request approved prior to selling the first home.

Mayor Harris called for any questions from Council.
Councilmember Kelkenberg stated that HOA’s do not always plan accordingly and wants to know what safeguards are in place. Mr. Reed agreed that mismanagement of HOA’s in the future can be an issue however Century Communities is dedicated to ensuring the proper maintenance as stated in the Declaration as a recorded document. He stated that he is unable to give assurances once the HOA undergoes future changes.

Councilmember Carden stated he is concerned about the private streets and the future weakening of the HOA. He asked what an option is if Council denies the request? Mr. Reed stated that they would still move forward and that HOA fees would not be a universal amount based on unit selection. Councilmember Carden asked if the commercial property on Buford Hwy would be contributing to street maintenance. Mr. Reed stated that Century Communities does not own that property.

Councilmember Bomar stated that Town Park Place has a HOA due structure based on property type. Mr. Reed stated it could be managed and that there are two different product types with rear entry and front entry. He continued by stating that in his experience it is easier to run a HOA that is all or nothing and maintain everything.

Councilmember Bomar asked how code enforcement could be utilized to ensure that the roads are maintained. Staff stated that Condition 28 is enforceable along with the condition that the final plat having the note, and the purchaser’s acknowledgement. There was additional discussion regarding communities that are similar that came to the City and asked for assistance repairing the roadways. Staff stated that the City did assist in those occasions.

Councilmember Whitlock stated that people are looking for gated townhome communities. Mr. Reed informed the Council that this is not a gated community.

Mr. Riker clarified that Woodhaven had public roads with public owned driveways. It was later changed so that the public driveways became private. The front half of subdivision has in fact public driveways.

Mr. Aiken state that Amendment 1 and 6 speak to the zero lots lines and other the proposed amendments reference the streets.

Mayor Harris 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.

Councilmember Bomar is happy that there are multilayer provisions in order to prevent poor maintenance of the property and streets.

A motion was made by Councilmember Kelkenberg, seconded by Councilmember Jones to approve Z2019-002 as presented.

Those voting for: Councilmembers Bomar, Jones, Kelkenberg and Whitlock

Those voting against: Councilmember Carden

Motion carried.

VI. NEW BUSINESS

1. AUTHORIZATION FOR AGREEMENT – PROPERTY PURCHASE
Council considered the purchase option agreement for acquisition of property at 3279 Buford Highway. Mr. Riker stated that the City has an opportunity to purchase 0.964 acre portion of the property and the owner would retain the remaining 1.9 acres. The acquisition would allow the City to complete the Davenport Road extension from South on Main to Buford Hwy for future development of a signal. Four hundred thousand dollars would be due immediately with a total purchase price $1.4 million and a final installment over the next four years. The owner will maintain the property.

Mayor Harris asked if the owner would continue to operate the property. Mr. Riker stated that the owner would continue with the current tenants. There is a provision in the agreement that if the City chooses to purchase the property earlier, the City would compensate the owner appropriately.

A motion was made by Councilmember Kelkenberg, seconded by Bomar to approve the option purchase agreement for the purchase of Tax Parcel R 6293 004 consisting of approximately 09.64 acres and located on Old Peachtree Rd with a general street address of 3279 Buford Highway within the incorporated limits of the City of Duluth from Duluth Mini Warehouse LLC for an option amount of $400,000 and a total purchase amount of $1,400,000 in accordance with the option agreement.

Councilmembers Kelkenberg and Bomar further moved to approve the ordinance to amend the FY20 budget (Budget Amendment BA-FY20-02) to add $400,000 in General Fund prior year reserve to Davenport Road Extension (CD-55) Land line item.

Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg and Whitlock

Motion carried.

VII. MATTERS FROM DEPT HEADS/CITY ATTORNEY

1. STORMWATER UTILITY FEE

The City of Duluth has implemented a Stormwater Utility in order to generate funds that are used to make improvements to the City’s Stormwater System. Staff recognizes that the existing system has significant deficiencies that are typical with aging infrastructure. As part of the City’s Stormwater Asset Management & Capital Improvements Program the City needs to develop a sustainable funding model that will allow the City to "catch up" and make strategic, timely, and cost conscious decisions about repairs to the City's Stormwater infrastructure.

Mr. Aiken presented current projects that are underway. The Centurion Hills project illustrated erosions, poor soil, and deterioration of the pipes. Outfall location needed significant amount of stone to back fill the area due to erosion. On Heath Lane in Norman Downs curb had settled causing flooding of the property. The City Reset the curb line and graded the driveway. An old corrugated metal pipe at Peachtree Walk had caused many sink holes and the pipe ran underneath Peachtree Walk. The City replaced the pipe and catch basin. A location at Main St and South Street had a lot of erosion that was stabilized with sod and added safety measures at end of the pipe. The City added a new catch basin at Windsor Gate. A call came in Public Works regarding sidewalk sinking Stormwater staff identified a sink hole where the pipe exists the catch basin. The sink was repaired, the sidewalk was poured, new catch basin and repair of a driveway. The Public Safety pond was corrected.

Councilmember Kelkenberg asked if the fence was repaired. Staff will check on this item.

Mr. Aiken reported on the City’s obligations and liabilities. The City has 4,200 structures with junction boxes and catch basin put in by developers. The City has 223,000 linear feet of pipe (42 miles) that it is responsible for. Sixty five percent of the piping is corrugated metal pipe that becomes corroded. A priority list was
developed over last couple of years. In 2013, the City completed 15 project for 1.8 million. From FY14-19, 140 projects were completed for $2.3 million. The City currently has 107s project on the priority list totaling $4.4 million. The expensive projects of over $100,000 sit on the list due to lack of funding.

Stormwater staff has updated the priority list, updated GIS, received feedback from Citizens Budget Committee, forecasted out 15 years, and compared fees to surrounding jurisdictions.

The Stormwater Utility Fee restructure was presented at previous meetings and six scenarios were presented. Mr. Aiken presented scenario 5 as that is the one that Council seemed most in support of. Currently an attached single-family home pays $14.40, detached single-family pays $36, non-residential pays $36/2,654 sf impervious surface and the undeveloped is $0. Attached single-family residential makes up 24% of the bills and only 4% is billed to the revenue. Detached single-family makes up 64% and 24% is billed to the revenue. Lastly, non-residential makes up 11% and 72% is billed to the revenue. Staff recommends increasing the costs by 113% ($31) for attached single-family, 72% ($62) for detached single-family, and 60% ($62/2,997 sf) for non-residential. The new structure changes the percent billed.

In 2018, $851,000 was collected. In FY19, 56% goes directly to system operations, maintenance, and capital improvements. Eleven percent goes toward regulatory compliance and 33% covers program administration. The proposed utility fee amendment will amount to $1,438,000 of annual revenue collections, and increase of $587,000. Staff is confident that the regulatory compliance and administration costs are fairly fixed.

Comparisons were presented. In 2011, Duluth fell in the middle in regards to cost for a detached single-family. Snellville had the lowest cost at $27.90 and Gwinnett County was the highest at $63.96. Most cities have increased from 2011 to 2019. Duluth did not increase fees during that time.

Councilmember Jones asked why comparisons are not shown for Suwanee, Buford and Lawrenceville. Staff reported that Suwanee does not collect Stormwater fees directly. Gwinnett County does.

Mr. Aiken continued by illustrating that the monthly fee for detached single-family residence would be $5 per month and $2.50 per month for an attached single-family residence. Duluth bills annually along with the property taxes. For non-residential the fees would increase to $16 per 10,000 sf ERU and fall in line with Gwinnett County fees.

Councilmember Bomar reiterated that for business owners the increase collected stays to repair inside the City limits whereas doing business in Gwinnett County the funds have to be spread out over a larger area.

Mr. Aiken stated that the next steps are to present again at the July 22nd Council Work Session and move to vote on the matter at the August 12th Council Meeting. Amended rates can go on the property tax bill this year to be due December 2019. The amendment effects Article 15 of the Code of Ordinances. It establishes the following. One (1.0) equivalent residential unit (ERU) equals 2,997 square feet of impervious surface area. The ERU of 2,997 sf is the average impervious surface footprint for a typical detached single-family property in Duluth. The attached single-family residential properties will be charges at a rate of .5 ERU. The .5 ERU represents the average impervious surface footprint of a typical attached single-family household in Duluth (1,439sf). Each non-single family residential property to be charged 1.0 ERU for each 2,997 sf of impervious surface located on the property to calculate the total number of ERUs for billing. Lastly, establish a Stormwater User Fee for 1.0 ERU at a rate of $62 per year.

Councilmember Bomar is concerned about the tax payers being hit with a bill for non-residential and how we communicate this.

Mayor Harris asked if it all has to be changed at once. Staff replied yes, due to the calculation of 1.0 ERU and square footage.
2. **HOUSE BILL 493: PRIVATE PERMITTING REVIEW AND INSPECTION ACT**

House Bill 493 (Private Permitting Review and Inspection Act) provides for professional engineers or other professionals to review certain plans related to building and development. The Bill also provides for a local governing authority to prequalify private professional providers who may perform plan reviews or inspections within a jurisdiction. Staff intends to advertise a request for qualification in the City's legal organ for services related to the Private Permitting Review and Inspection Act. This way the consultant is pre-qualified.

Councilmember Bomar asked if the developer bares all the cost. Staff reported yes. Staff does not think this bill will affect the City.

**VIII. MATTERS FROM CITIZENS**

Darrell Hall came forward to represent Discovery House, a residential addiction recovery program. The program is currently on a moratorium with a Cease and Desist order for July 25th. The Cease and Desist order allows apartment complexes to terminate leases immediately. The program has been operating for 10 years at Berkeley Landing and they have forced to leave. Mr. Hall requested the deadline be extended to October in order to resolve issues with the City.

**IX. MATTERS FROM COUNCIL**

Councilmember Kelkenberg stated that he noticed that the Hwy 120 Development has 20 or more pieces of corrugated pipe. He is concerned that this may be significant maintenance in the future. Staff stated that corrugated pipe is being used to develop an underground pond to replace a retention pond.

Mayor Harris is interested in having the Food Trucks brought in for the Block Parties. Councilmember Whitlock expressed that attendees are confused about what a Block Party is and it’s causing stress for the restaurants to handle all the people. Councilmember Bomar stated the concept was to bring the restaurants out. But not all restaurants are participating. She doesn't want the food trucks competing with the bricks and mortar.

Councilmember Kelkenberg stated food trucks needs to be placed in strategic places so that restaurants are not blocked and the food truck sell the exact type of food. Staff are charged with determining how many food trucks to bring back at the Block Parties.

Councilmember Kelkenberg stated that he cooked for the kids at the day camps. He said that it looks like the kids were having a great time as are the camp counselors. Staff reported that Duluth was a winner in the 2019 Reader’s Choice Award for Best Summer Day Camp. Duluth was runner-up in Sports League in Camps and Clinics. Duluth also selected for Best Festivals, Best Museum, Best Theater, Best Concert Venue, and runner-up for Best City to Live. The following restaurants won Best Restaurant in their categories; Truck N Tap, Pure, Noona Steakhouse, Kurt’s Euro Bistro, Dreamland, Good Word Brewing, Local on North, Maple Street Biscuits, Simple Done Donuts, Crave Pie, Duluth Diner, and Nacho Daddy’s. Best School went to Duluth High School and Coleman Middle School was runner-up. Best Employer went to City of Duluth.

**X. MATTERS FROM CITY MANAGER**

**XI. ADJOURNMENT**

A motion was made by Councilmember Kelkenberg, seconded by Councilmember Carden, to adjourn at 7:30pm.

Those voting for: Councilmember Bomar, Carden, Jones, Kelkenberg, and Whitlock.

Motion carried.

*The next scheduled meeting of the Mayor and Council is a work session for July 22, 2019 at 5:30 p.m.*