

## MINUTES

### DECATUR CITY COMMISSION

Special Called Meeting  
July 10, 2020  
Via Video Teleconference: 9:00 a.m.

Mayor Garrett called the Special Called Meeting of the Decatur City Commission to order at 9:00 a.m. on Friday, July 10, 2020.

PRESENT: Mayor Garrett; Mayor pro tem Powers and Commissioners Dusenbury, Mayer and Walsh; and, City Manager Arnold.

#### PUBLIC COMMENT ON AGENDA ACTION ITEMS.

Mayor Garrett opened the meeting for public comment.

Janet Beck, 652 East Ponce de Leon Avenue, spoke in support of the ordinance

Clare Schexnyder, 116 Drexel Avenue, spoke in support of the ordinance.

Alora Brock, owner of Gracie Jiu-Jitsu Decatur, spoke in support of the ordinance but requested that an exception be added to allow for high intensity interval training workout facilities to allow patrons to exercise without masks.

Rutledge Hudson, 420 Coventry Road, spoke in support of the ordinance.

Demetrice Williams, Special Events Director at Agnes Scott College, stated that the Agnes Scott campus was becoming a 'mask campus.'

Michael Harbin, 111 Lucerne Street, stated that the ordinance needed to be accompanied by a message regarding personal responsibility about the wearing of face coverings in public.

Mary Alleman, 207 Superior Avenue, stated that the groups of people spending time on the Square were the most vulnerable and would likely benefit from public health education.

Kellei Johnstone, 401 South Columbia Drive, stated that she wanted to know more about enforcement and communication of the ordinance should it be adopted.

Harper Harris, 1183 Mayfield Drive, also requested additional information about enforcement and communication.

Ms. Beck stated that she wanted to know the exact area eligible for enforcement.

Mayor Garrett closed the public hearing.

## FACE COVERING ORDINANCE.

City Manager Andrea Arnold stated that the subject of the special called meeting was consideration of Ordinance O-20-09 to mandate the use of face coverings while inside public establishments to deter the spread of COVID-19. She noted that the City Commission had previously approved Resolution R-20-14 on July 8, 2020 which strongly encouraged the use of face coverings and requested at that time for staff to return with an ordinance mandating face coverings by July 10, 2020. City Manager Arnold read the definition of “Establishment” and presented some examples such as stores, restaurants and lobbies of public facilities. She stated that the ordinance applied to patrons and employees of such establishments. She also read the list of named exceptions from Section 1(e).

City Manager Arnold stated that the goal of Ordinance O-20-09 was voluntary compliance; however, penalties were included. She noted that the offenses would be civil in nature and that Police Officers could issue verbal and written warnings before citing someone in violation. City Manager Arnold stated that if approved, Ordinance O-20-09 would become effective on Saturday, July 11 at 8:00 a.m.

City Manager Arnold stated that City Attorney Bryan Downs was instrumental in drafting the ordinance and that the proposed ordinance was similar to ordinances adopted by other Georgia jurisdictions including Athens-Clarke County, Brookhaven, East Point and Savannah.

Mayor Garrett noted that that ordinance only applied to incorporated limits of the City of Decatur. She mentioned that DeKalb County was considering taking action for the unincorporated areas.

Commissioner Walsh stated that she felt strongly about this issue and that the major questions she had had been answered.

Mayor pro tem Powers thanked City Manager Arnold and Mr. Downs for the quick turnaround and noted that the proposed ordinance addressed many of the questions that lingered from Wednesday’s approval of Resolution R-20-14.

In response to a question from Mayor pro tem Powers, City Manager Arnold stated that during review of dozens of orders from across the nation, there was not much consistency to the age range though most mandated for children in the 10-12 age bracket. She noted that pediatric sources recommended following CDC guidelines though they also recognized the limitations of doing so with young children. City Manager Arnold noted that the age 10 requirement was consistent with neighboring jurisdictions.

In response to a question from Mayor pro tem Powers, Mr. Downs stated that explicit language on the probable cause standard was not spelled out in the City’s code; however, police officers were trained to address probable cause. He noted that the probable cause standard in this instance was less as the enforcement of the ordinance resulted in a civil penalty. He reiterated that the goal of the proposed ordinance was voluntary compliance rather than punishment.

Commissioner Mayer thanked staff for drafting language that allowed for the provision of face coverings to someone who might not have one.

In response to a question from Commissioner Mayer, City Manager Arnold stated that the proposed ordinance did not apply to City Schools of Decatur other than in lobbies of its facilities. She stated that the Board of Education would make its own decisions about face covering requirements on its campuses.

In response to a question from Commissioner Mayer, City Manager Arnold stated that if adopted, the ordinance would apply to a MARTA patron once that person was in an establishment in the city.

In response to a question from Commissioner Dusenbury, Mr. Downs stated that the City had the authority to exercise police powers in City Schools of Decatur facilities but issues arose when making decisions on behalf of another elected body.

In response to a question from Commissioner Dusenbury, City Manager Arnold stated that places of worship were excluded due to limited legal authority but that they were strongly encouraged to follow the guidelines as set forth in the ordinance.

In response to a question from Commissioner Dusenbury, Mr. Downs stated that the proposed ordinance shared components with other jurisdictions and that the focus was on retail and restaurant establishments due to a greater lack of voluntary compliance unlike at places of worship.

Commissioner Dusenbury expressed his concern over not including places of worship as community spread in other locations had come from religious gatherings. He noted that spaces in downtown Decatur and Oakhurst had a tendency to become crowded such that social distancing was not possible outside. He requested that staff consider incorporating mask zones similar to the pedestrian zones and clean air zones.

City Manager Arnold reiterated that the focus of the ordinance was on indoor spaces; however, Section H addressed guidance for mask use in outdoor spaces.

Mr. Downs stated that the proposed ordinance was in alignment with Governor Kemp's executive orders and it was his recommendation to follow the science in terms of indoor transmission of the virus.

City Manager Arnold noted that staff from Community & Economic Development Department, the Police Department and DeKalb County recently met to discuss the vulnerable population residing near downtown Decatur. She stated that Police Department's Business District Officers were distributing masks now and that the group was working to obtain public health services for the homeless population in the area.

City Manager Arnold stated that as long as people could maintain the recommended six feet social distancing space while outdoors, face coverings would not be required until someone entered an establishment.

In response to a question from Mayor Garrett, Mr. Downs stated that the proposed ordinance did not exclude indoor exercise facilities. He recommended not creating additional

exceptions during the meeting to limit the number of unintended consequences that could occur by doing so.

In response to a question from Commissioner Mayer, Mr. Downs stated that there was a level of ambiguity in the proposed ordinance due to a lack of time to draft and the number of stated exceptions but that the proposed ordinance was consistent with Governor Kemp's executive orders. He noted that the science and data used for drafting the ordinance related to indoor spread so that was the focus of the proposed ordinance. He recommended exploring other options before legislating the wearing of face coverings outdoors.

In response to a question from Mayor Garrett, Mr. Downs stated that a person did not have to wear a mask if waiting in line outside to enter an establishment.

Commissioner Mayer stated that her preference to ordinance drafting would be for the ordinance to address all issues before it was brought forward for consideration.

Commissioner Dusenbury stated that he would like to have further conversation around requiring face coverings while outdoors when one cannot easily keep to physical distancing guidelines.

Commissioner Walsh stated that given the active lifestyle of many in the community, the City Commission needed to protect the benefit of going outdoors for physical activity instead of adding more legislation at this time.

Commissioner Mayer requested that a clarification be added that specified the ordinance only mandated face coverings in indoor public spaces as well as the exception that referenced outdoor use be stricken.

Mr. Downs stated that while he appreciated the desire to clarify the regulations in the ordinance, the City Commission was not in the practice of modifying ordinances during meetings. He asked that they not get caught up in the exact phrasing as the intention of the ordinance was voluntary compliance followed by the issuance of civil penalties. He stated that if the ordinance needed to be amended, that it should be done at another meeting so as to not create unintended consequences.

Commissioner Dusenbury requested that item e (3) be removed from consideration.

Mayor pro tem Powers offered remarks based on personal observation at his place of business that most people automatically put on a face covering when they exited their vehicles. He encouraged the use of communications and signage as key to compliance. He noted that the proposed ordinance did what the City Commission had asked of staff to draft and that amending the ordinance was possibility.

Mayor Garrett concurred with Mayor pro tem Powers about the charge given to staff and the resulting ordinance. She stated that while she was not comfortable in making changes during the meeting, she had found value in the discussion. She recommended moving forward with the proposed ordinance as written.

On a motion by Commissioner Mayer, second by Commissioner Dusenbury, a request to amend the ordinance to specify that it was for indoor public spaces only and to remove item e (3) was made.

In response to a question from Commissioner Dusenbury, Commissioner Mayer stated that indoors-only needed to be specified in order for enforcement to be handled appropriately.

Mayor pro tem Powers stated that he was not comfortable with mandating that employees required to wear facing coverings while on the job would not be able to take a break outside without wearing a mask.

Commissioner Mayer reiterated that it was important to be clear that the mandatory wearing of face coverings was for indoors only. She requested that an updated definition of public spaces be included.

In response to a question from Commissioner Walsh, Mr. Downs stated that by adding language to the proposed ordinance, it would add to the implied requirements set forth in the ordinance.

Mr. Downs stated that if there was any confusion, he recommended that instead of amending the proposed ordinance that staff create and publish a summary statement of the items and actions outlined in the ordinance for dissemination to the public to assist in clarification as amending at the table often created unintended consequences.

Commissioner Mayer withdrew the motion.

Commissioner Walsh stated that they needed to make it clear that indoor exercise facilities were not granted an exception under this ordinance.

In response to a question from Mayor pro tem Powers, Mr. Downs stated that businesses were still to follow the emergency orders as set forth by Governor Kemp regarding operating during the public health emergency so the proposed ordinance applied more to patrons than business owners and employees.

On a motion by Commissioner Dusenbury; second by Mayor pro tem Powers; and, all voting "aye," Ordinance O-20-09 was adopted as presented.

#### REPORTS AND OTHER BUSINESS.

Assistant City Manager Linda Harris stated that she had been working with the co-chairs of the Better Together Advisory Board, Haqiqa Bolling and Ed Lee, as well as Communications Manager Renae Madison on establishing a speaker series as part of the City Commission's charge to create meaningful dialogue around racial equity. Ms. Harris stated the first of four speakers had been identified, with two having dates and times for their sessions – Jane Elliott on August 27 from 12 to 1:30 p.m.; Catherine Meeks on September 17 from 6 to 7:30 p.m.; Andra Gillispie in November; and, Tim Wise in December. She stated that each session would include a suite of programming before and after as a way to enrich the experience.

Commissioner Dusenbury stated that he was glad the ordinance was adopted and he noted that he would like to have further discussion to possibly expand the definitions to include outdoor public spaces and places of worship.

Commissioner Walsh stated that she was appreciative of an ordinance that acted as a baseline and that it protected the community where it was most at risk. She stated that she was glad that it promoted compliance over punishment.

Mayor pro tem Powers stated that this meeting showed what collaboration looked like.

Mayor Garrett thanked the City Commission and the public for holding such a robust conversation. She also thanked Mr. Downs for being at the meeting to answer questions.

The City Commission thanked City Manager Arnold and Mr. Downs for quickly crafting an ordinance that supported the community and promoted compliance.

There being no other business, the meeting was adjourned.

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Meredith Roark  
City Clerk