

**MINUTES
DECATUR CITY COMMISSION**

Regular Meeting
April 15, 2024
City Hall: 7:30 p.m.

Mayor Garrett called the Regular Meeting of the Decatur City Commission to order at 7:30 p.m. on Monday April 15, 2024.

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

ABSENT: Commissioner Dusenbury.

MINUTES of the Regular Meeting of April 1, 2024 were approved on a motion by Mayor pro tem Powers; second by Commissioner Walsh; and, Mayor pro tem Powers, Commissioner Mayer and Walsh voting “aye” and Mayor Garrett abstaining¹.

PROCLAMATION.

Mayor Garrett read a proclamation that recognized April 24, 2024 as Administrative Professionals Day.

Mayor Garrett read a proclamation recognizing April 21-27, 2024 as Georgia Cities Week.

PRESENTATION.

Decatur Arts Alliance Executive Director Angie Macon made a presentation about the annual Decatur Arts Festival, scheduled for May 3-5, 2024 that would feature over 150 artists in the artist market, more than 20 musical acts, and 50 drama acts. Ms. Macon discussed previous events held in 2024, including the Playwright Festival, an emerging community artists exhibition called *Proximity*, and the Oakhurst Wine Crawl. Ms. Macon shared the event poster which was designed by illustrator Shamar Knight-Justice. She noted that the upcoming Arts festival would feature an inaugural Children’s Book Festival and expanded Kids Fest, with a speaking appearance by acclaimed children’s fiction author Kate DiCamillo.

ALCOHOLIC BEVERAGE LICENSES.

Special Events Coordinator Jackie Moore recommended approval of temporary special event beer and wine licenses for six annual non-profit-sponsored events: the Decatur Arts Festival on May 3-5; Pollinator Festival on June 22; Pan-African Festival on August 17; Placita Latina on September 21; Decatur BBQ and Bands Festival on October 26; and, the Decatur Wine Festival on November 9.

On a motion by Mayor pro tem Powers; second by Commissioner Mayer; and, all present voting “aye,” the licenses were approved as recommended.

¹ Mayor Garrett did not attend the April 1, 2024 City Commission meeting.

City Manager Arnold recommended approval of an alcoholic beverage license for consumption on premises of beer and wine and spirituous liquors to James Hancock for Bench Warmers Decatur, Ltd. d/b/a Bench Warmers Sports Grill, 240 West Ponce de Leon Avenue.

In response to a question from Mayor pro tem Powers, City Manager Arnold confirmed that the business was eligible for an open container license but that such a license required a separate application and fee.

On a motion by Mayor pro tem Powers; second by Commissioner Walsh; and, all present voting “aye,” the license was approved as recommended.

PLANNING COMMISSION RECOMMENDATIONS.

Planning & Zoning Manager Kc Krzic presented recommendations from the Planning Commission on a request to modify the zoning conditions and conditional use permit at Smarties Academy, 465 Clairemont Avenue. Ms. Krzic noted that Smarties Academy was a day care center that had previously received zoning and conditional use permit approvals on the condition that enrollment be capped at 148 students. She stated that the applicant, Bogumila Kabat, was requesting that the enrollment cap be increased to 178 students. Ms. Krzic stated that the Planning Commission had voted to recommend denial of both requests for modifications.

Attorney Jenna Lee of Troutman-Pepper presented on behalf of the applicant. Ms. Lee said the request before the City Commission was to increase the student enrollment from 148 students to 178 students. Ms. Lee reminded the City Commission that Smarties Academy had previously submitted a request that the enrollment cap be increased to 300 students, then reduced the request to 250 students, then retracted the request altogether due to negative feedback from neighborhood residents. Ms. Lee explained that the applicant requested the enrollment increase to accommodate the siblings of currently enrolled students and the children of staff members, to create capacity for summer programs, and establish flexibility to meet customer demand. She defended Smarties Academy’s actions in the face of accusations from neighbors that the business was not acting “in good faith” and was failing to communicate with concerned residents. Ms. Lee stated that the addition of 30 students would not have a material impact on existing traffic conditions and stated that photos showed that there were not significant traffic issues on the site. She noted that the state license allowed up to 190 students in the facility. She stressed that the site had not been changed since purchasing that site, and that Smarties had been doing its due diligence to maintain the property.

Mayor Garrett opened the meeting for a public hearing on the Planning Commission’s recommendations.

Jack Hutcheson, 516 Clairemont Avenue, stated the community concerns and traffic issues were more extensive than the applicant had claimed, and that the traffic concerns were due to the narrow streets, not the size of Smarties’ parking lot. Mr. Hutcheson expressed concerns that the expansion would continue past the summer season and expressed his belief that many families on the waitlist may not be Decatur residents.

Kate Lawes, 510 Clairemont Avenue, stated she believed Smarties Academy purchased the property with the intent to continue expanding. She expressed support for the Planning Commission's decision.

Rick Herzog, 455 Clairemont Avenue, stated while he and other neighbors had supported the Planning Commission's previous decision to cap Smarties' enrollment, they expressed regrets because 148 students felt too large. He noted that neighbors did not trust the applicant due to discrepancies between their actions and previous statements. He noted that the site of Smarties was not a true commercial property due to its residential surroundings and location in a historic district.

Mark Brown, 128 Erie Avenue, stated the parking lot was more full than Smarties' stated, and expressed his concerns about traffic due to the presence of both Smarties and nearby Clairemont Elementary School. He also stated that the "intensity of use" was an issue – deliveries, trash removal, lawn care, etc. He asked what had changed to sufficiently justify raising the enrollment cap, and expressed suspicion about the applicant's successive requests for expanding the enrollment cap.

John Leake, 255 West Parkwood Road, expressed his support for expanding childcare options as a tandem to supporting affordable housing efforts.

Maria Alvarez, 449 Clairemont Avenue, stated she supported the need for quality childcare, but that Smarties Academy was not affordable childcare. She expressed her opinion that Smarties had been acting in bad faith regarding its intent to grow and continue to make a profit.

Debra Painter, 320 Superior Avenue, stated she had observed traffic issues and had personally witnessed several cars making illegal left turns heading to Smarties Academy. She expressed concern regarding the impact of vehicular traffic on the neighborhood.

Julia Brown, 128 Erie Avenue, stated she also felt that traffic and safety on Erie Avenue had been negatively impacted by the growth of Smarties Academy and that Smarties Academy had thinned the vegetative buffer that allowed more noise and light into the neighborhood.

Devin Gordon, 144 Erie Avenue, stated that pedestrian traffic had been negatively impacted by the increase of automobile traffic heading to and from Smarties. He also refuted Smarties claims of working with the neighbors, describing the dialogue as "sporadic."

With no additional comments, the public hearing was closed.

Ms. Lee once again emphasized that Smarties had not acted in bad faith and was simply following the zoning process as their needs evolved. She also noted that Smarties' current request was a response to the neighbors' opposition to a more significant enrollment increase and stated that any congestion of street parking was likely not the fault of Smarties' patrons. She once again expressed that the applicant was asking for flexibility with the additional enrollment

and to utilize the space they currently have in the facility. Ms. Lee introduced the applicant's traffic engineer, Abdul Amir, with A&R Engineering.

Mr. Amir stated during the morning and afternoon rush hour, there was not significant traffic backup, and that the addition of 30 students would not create an additional traffic burden. Mr. Amir noted most of the patrons likely were not Decatur residents, but that he felt it shouldn't matter. He reiterated that the addition of 30 students would not overload the capacity of the neighborhood roads.

Mayor pro tem Powers stated that the ongoing conversation was very similar to the initial debate over the enrollment cap in 2022. He stated he understood Smarties Academy's desire to grow, but also noted that the residential surroundings created more restrictions than a true commercial zone might. He stated that his concerns had not been fully addressed.

Commissioner Mayer echoed Mayor pro tem Powers sentiments and stated that she had concerns about the number of students allowed by the current enrollment capacity. She stated the applicant had dismissed the neighbors' concerns and distrust to their own detriment. She noted that while 30 additional students seemed innocuous, 178 students was a large number that might also have an impact on the neighborhood and nearby Clairemont Elementary. She stated that she still felt that the existing 148 student cap was a fair compromise. She explained that while she sympathized with the applicant, she also was not willing to make a decision that could further impact neighbors without qualitative information that would address neighbors' concerns and impacts to the neighborhood without mitigation.

Commissioner Walsh noted that as a former resident of Erie Avenue, she could verify that the area was already busy even before the expansion of Smarties Academy and that she sympathized with residents. She noted that the enrollment cap of 148 students was logical because that was also the initial operating capacity for the facility, and that she felt no impetus to increase the enrollment cap because the applicant had expanded the capacity. She also stated that she felt 30 students was a significant increase in the context of childcare.

Mayor Garrett reiterated that it appeared not much had changed with the situation that would justify the increase in enrollment but did note that Smarties Academy was following the established process to increase its enrollment. She also said this request was more than the community could absorb.

Mayor pro tem Powers expressed concerns that while the applicant had previously stated Clairemont Elementary would be able to continue to use the property parking lot for overflow, Smarties Academy had since made the parking lot for Smarties patrons only. He stated this may have had a negative impact on public trust towards Smarties Academy.

On a motion by Mayor pro tem Powers; second by Commissioner Walsh; and, all present voting "aye" on a roll call vote, the request for modification of zoning conditions to increase enrollment of a day care center from 148 to 178 students was denied.

On a motion by Mayor pro tem Powers; second by Commissioner Walsh; and, all present voting “aye” on a roll call vote, the request for modification of conditions of a conditional use permit to increase enrollment of a day care center from 148 to 178 students was denied.

PUBLIC COMMENT ON AGENDA ACTION ITEMS.

Mayor Garrett opened the meeting for public comment. Hearing none, the public comment portion of the meeting was closed.

EASEMENT ACQUISITION SERVICES.

Assistant City Manager Cara Scharer recommended the approval of an agreement with Dianna Hunt & Associates, Inc. in an amount not to exceed \$34,200 for easement acquisition services for the Derrydown Way storm water improvements. She stated the project would require 18 temporary construction easements and one permanent easement. She also noted the firm had previously performed similar services for the City.

In response to a question from Mayor Garrett, Ms. Scharer stated it would take approximately four months to acquire all the easements.

In response to a question from Mayor pro tem Powers, Ms. Scharer stated she believed there would be no issues acquiring the permanent easement since it is intended to be permanent to protect existing trees, which aligned with the preference of the property owner.

On a motion by Commissioner Walsh; second by Mayor pro tem Powers; and, all present voting “aye,” the agreement was approved as recommended.

CONTRACT FOR PAVEMENT STRIPING AND MARKING.

Ms. Scharer introduced Jennifer Levy, a registered engineer-in-training from on-call engineering consulting firm HDR who had assisted Decatur staff on the project.

Ms. Scharer recommended approval of a project budget of \$220,000 and award of a contract to Big Apple Services in the amount of \$194,920 for pavement striping and marking at three locations in the City: Coventry Road from Scott Boulevard to the City limit, West Ponce de Leon Avenue from the City limit to West Trinity Place, and East Ponce de Leon Avenue from Church Street to North Candler Street. Ms. Scharer noted striping had deteriorated significantly on West and East Ponce de Leon Avenue and that methyl methacrylate (MMA) paint was the next phase of traffic-calming project for Coventry Road. She stated Big Apple Services had been the sole respondent to the request for bids, and that funds for the project were available in the Fiscal Year 2023-2024 Capital Improvement Fund.

In response to a question from Mayor Garrett, Ms. Scharer noted the City had previously used MMA paint for bike lanes.

In response to a question from Commissioner Walsh, Ms. Scharer stated the new striping would be slightly expanded to create a larger buffer between vehicle and bike lanes where possible. She added future traffic calming phases would feature tactical urbanism and curb-like structures for traffic calming.

On a motion by Mayor pro tem Powers; second by Commissioner Walsh; and, all present voting “aye,” the project budget and contract were approved as recommended.

REQUESTS AND PETITIONS.

There were no requests or petitions.

REPORTS AND OTHER BUSINESS.

Planning and Economic Development Director Angela Threadgill promoted the Earth Day event on Saturday, April 20 from 11:00 AM to 2:00 PM on behalf of the Environmental Sustainability Board and City Arborist Kay Evanovich. Ms. Threadgill noted that Arborist Evanovich would have free tree seedlings at the event for interested residents.

Ms. Threadgill also stated that City staff and partner Microlife Institute would host an open house at Decatur Recreation Center on May 2 from 5:00 – 6:30 PM to present design concepts for 600 Commerce Drive missing middle housing demonstration project. She noted the concepts were based on feedback from neighbors and a previous community design charette session.

Ms. Scharer stated there would be a public meeting for the design of the South Columbia Drive multi-use path on April 18 from 6:00 – 8:00 PM at Decatur Legacy Park.

In response to a question from Mayor Garrett, Ms. Scharer and Commissioner Mayer confirmed the meeting had been promoted on websites and social media.

City Manager Arnold announced the City had been awarded a \$500,000 Energy Future Grant by the Department of Energy on April 4. City Manager Arnold noted the application was a joint effort with the City of Atlanta, City of Savannah, and Georgia Tech. She recognized Energy & Sustainability Coordinator David Nifong for his work on the grant application and expressed her excitement to work on innovative sustainability solutions with Georgia Tech.

Commissioner Mayer expressed appreciation for local businesses that partnered with the City and that she hoped Smarties Academy would work with the community to mitigate concerns and work with its neighbors to build greater trust.

Commissioner Walsh stated she took no pleasure in making a decision to deny a local business a growth opportunity but echoed Commissioner Mayer’s hopes that Smarties Academy could work with its neighbors to find a path forward that benefited the business, neighborhood and community.

Commissioner Walsh noted early voting would begin on April 29 and that multiple representatives for DeKalb County would be on the primary ballots.

Commissioner Walsh praised the panel hosted by DeKalb County Commissioner Robert Patrick on DeKalb County’s unsheltered population, and expressed hope that DeKalb County and the City could work together on addressing issues that impacted the population.

Mayor pro tem Powers announced that Trees Atlanta had presented Decatur with a Trees Champion Award and commended the City for its ambitious tree canopy goals.

Mayor pro tem Powers echoed the hope that Smarties Academy would be able to engage the community and find a path forward.

Mayor pro tem Powers announced ribbon cuttings for the opening of Vine Fine Wine and the Glenlake entrance to the bike path.

Mayor pro tem Powers congratulated the Decatur High School Lady Bulldogs lacrosse team for winning the program's first region title.

Mayor pro tem Powers closed his remarks by wishing his wife a happy 35th wedding anniversary.

Mayor Garrett echoed the rest of the City Commission's hopes regarding Smarties Academy.

Mayor Garrett stated that the Amplify Musical Festival event on April 13 was a rousing success.

Mayor Garrett said the first Legacy Park Community Day was well attended and the non-profits were well represented.

Mayor Garrett noted that she would be delivering brief remarks at the April 20 Earth Day event.

Mayor Garrett adjourned the meeting at 9:32 PM.

Meredith Roark
Chief of Staff (City Clerk)