

**MINUTES
DECATUR CITY COMMISSION**

Regular Meeting
January 22, 2019
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 Tuesday, January 22, 2019.

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

MINUTES of the Organizational Meeting of January 7, 2019 were approved on a motion by Commissioner Smith, second by Mayor pro tem Powers; and, all voting “aye.”

OATH OF THE OFFICE.

Mayor Garrett administered the Oath of Office to Municipal Court Judge F. Robert Slotkin Jr.

SPECIAL EVENT ALCOHOLIC BEVERAGE LICENSES.

Special Events Coordinator Shirley Baylis recommended issuance of temporary special event alcoholic beverage licenses for the retail sale of beer and wine for eight annual events sponsored by Decatur non-profit organizations. She stated that the events were the same as in 2018 and included the Mead Road Mardi Gras, Amplify Music Festival, Decatur Arts Festival, Decatur Beach Party, BBQ, Blues, and Bluegrass Festival, AJC Decatur Book Festival, Decatur Craft Beer Festival and Decatur Wine Festival.

On a motion by Mayor pro tem Powers, second by Commissioner Smith; and, all voting “aye,” the special event beer and wine licenses were approved.

PLANNING COMMISSION RECOMMENDATION.

Planning Director Angela Threadgill presented a summary of the application submitted by The Quarters Decatur LLC that included a preliminary plat, staff report and public comments regarding the proposed project. She stated that the applicant had requested a major subdivision for a 43-unit townhouse development on the adjoining properties of 973, 977, 981, 1003, 1007, 1015, 1019 and 1023 Church Street. She added that the property under consideration had an area of 2.54 acres and was zoned RS-17 Single-Family Residential District. She stated that the zoning regulations regarding street type, access and building orientation were not met. Ms. Threadgill stated that the required traffic study had not been received. She also stated that the city staff found the proposed layout in the preliminary plat to be inconsistent with the objective development standards of the Decatur Unified Development Ordinance (UDO). She stated that the applicant had not revised the proposed layout to meet the objective development standards. She recognized that the objective development standards were amended in June 2017 when the applicant was still receiving pre-application comments. She stated that the proposed layout failed to meet the

objective development standards of the old and amended UDO. She stated that the Planning Commission unanimously recommended denial of the proposed preliminary plat.

Alex Brock representing the applicant presented a timeline of events and stated that the proposal met the requirements of the code at the time of the pre-application meeting and when the preliminary plat was filed in April 2017. He stated that the applicant did not see a need to revise the preliminary plat as the new code was not in effect when the application was submitted. He stated that the applicant never received a decision regarding the revised preliminary plat filed in June 2017 although the ordinance indicated that it must be reviewed administratively or placed on the Planning Commission agenda within 30 days. He stated that the applicant filed a writ of mandamus to direct the City to process the application.

Mayor Garrett opened the meeting for public comment.

Nicole Kaplan, 232 Willow Lane, spoke in opposition to the application. She reiterated some of the observations made at the Planning Commission meeting on January 8, 2019 including that the applicant did not submit the required documents including the application fees in 2017, no traffic studies had been conducted and no public input sessions had been scheduled. She stated that the proposed plan could cause water runoff issues and affect the tree canopy in the area.

Barbara Shirkey, 10 Candler Grove Court, spoke in opposition to the application. She voiced her concerns regarding environmental issues, impact on quality of life and potential challenges with walkability. She stated that she would be directly affected by the proposed development and added that she was never contacted by the applicant to get her input. She stated that the proposed development was not in alignment with the guiding principles in the City's 2010 Strategic Plan, specifically principles A, C, and D. She presented the City Commission with a petition in opposition containing 609 signatures. She stated that 12 neighbors spoke in favor of the application when obtaining signatures.

Thomas Zahm, 6 Ole Ansley Court, representing the Candler Grove Homeowners Association spoke in opposition to the application.

Jeanne Lee, 8 Candler Grove Court, spoke in opposition to the application.

Richard Sampson, 1325 Scott Boulevard, spoke in opposition to the application. He voiced his concerns regarding safety of pedestrians with the influx of traffic that could be caused by the proposed development.

Dana Calleja, 236 Willow Lane, spoke in opposition to the application. She concurred with Ms. Kaplan and Mr. Sampson.

Nora Levesque, 307 Willow Lane, spoke in opposition to the application. She voiced her concerns regarding increase in density and impact on traffic that could be caused by the proposed development.

Jeff Johnson, 6 Ole Ansley Court, spoke in opposition to the application. He expressed his concerns regarding the building orientation, proposed design and the lack of community input.

Mike Miller, 952 Church Street, spoke in opposition to the application. He expressed his concerns regarding increased traffic, safety of pedestrians and impact on tree canopy.

Doug Peters, 1019 Church Street, spoke in support of the application. He stated that his rights as a homeowner and resident in the City had been violated. He stated that the approach taken by the city staff was unlawful according to the Georgia Court of Appeals.

Noni Ravenberg, 952 Church Street, spoke in opposition to the application. She expressed her concerns regarding pedestrian safety. She stated that the applicant had failed to comply with the development standards mentioned in the UDO and requested the City Commission to note the same.

City Attorney Bryan Downs presented his opinion on the matter. He stated that false statements had been made by the applicant's legal counsel. He stated that the timeline described by Mr. Brock was inaccurate and the City records would show that. He stated that the homeowners had been misinformed by the applicant's attorney who also served as the homeowners' attorney. He expressed his concerns regarding the absence of several key representatives from the application team who were present during previous meetings. He stated that the deposition of the Chief Operating Officer of Thrive Homes Kirstin Hobday was conducted on January 9, 2019. He presented the deposition transcript for the City records and highlighted key points from the transcript.

Ms. Threadgill stated that the applicant misconstrued the pre-application acceptance as an actual application acceptance even though they did not submit the application fee, complete application forms or provide authorization forms from the property owners. She added that the complete application with all the requirements was not submitted until December 2018. She stated that city staff did not have an issue with the proposed density but the other development codes and standards would have to be adhered to for any development. She explained the potential increase in vehicular trips if the proposed development would take place. She voiced her concerns regarding inconsistency in the information presented in an affidavit by Ms. Crystal Robinson representing Thrive Homes.

Mr. Brock stated that the current zoning allowed any future developer to apply for a similar development causing the same traffic and density impact as implied by the proposed development. He reiterated that the applicant had applied in April 2017 and the lack of response from the City had forced the applicant to seek legal action. He stated that the homeowners had been involved in the issue for over two years and the entire ordeal was unfair to them.

In response to a question from Mayor Garrett, Mr. Downs explained that while there are different technical requirements with the amended UDO, the preliminary plat did not change under either set of UDO standards.

Mayor Garrett closed the meeting for public comment.

Commissioner Smith stated that there was a strong likelihood of a similar development taking place in the future but the crucial point was that the required procedure to file an application had not been followed by the applicant. He stated that the applicant did not give importance to valid concerns regarding impact on the environment and increase in traffic that were raised by the residents.

Commissioner Walsh stated that an application which did not adhere to the objective standards mentioned in the UDO was unacceptable. She voiced her concerns regarding the lack of public outreach which was expected from the applicant who had previously received approval from the City for different projects.

Mayor pro tem Powers stated that payment of fees, completion of the required forms and submission of all other required documents would be expected for any form of transaction to be successful. He stated that the applicant did not complete the transaction as the required steps were not followed.

Commissioner Drake stated that the applicant did not consider the input of the public which reflected poorly on their work. He added that the questions raised by the community members would have to be answered for any development to take place. He stated that he concurred with the recommendations of the Planning Commission.

Mayor Garrett stated that the lack of public outreach, impact on quality of life and public safety issues were the primary concerns that the applicant should have considered before bringing up the issue to the Planning Commission or the City Commission. She stated that community participation, public safety and maintaining the quality of life were the first set of standards that the applicant overlooked.

On a motion by Commissioner Walsh, second by Commissioner Smith; and, all voting “aye,” the requested major subdivision was denied.

PUBLIC COMMENT ON AGENDA ITEMS.

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

MASTER LEASE AGREEMENT WITH THE DECATUR HOUSING AUTHORITY.

City Manager Arnold recommended authorizing the City Manager to enter into a master lease agreement with the Decatur Housing Authority (DHA). She stated that at the City Commission meeting on December 3, 2018 the City Manager had been authorized to negotiate a master lease agreement with DHA for the rental of eight duplex units and two single-family homes located at Decatur Legacy Park for use by DHA families during rehabilitation of 98 units in the Swanton Heights community. She added that the city staff had worked with DHA to complete the master lease agreement which was included in the agenda materials. She stated that the Swanton Heights reconstruction project would take approximately 24 months and the rental period would start on or about May 1, 2019. She added that during the lease period DHA would pay rent and

utilities, would be responsible for maintenance and repair of the leased properties and would provide all necessary insurance required of a tenant.

In response to a question from Mayor pro tem Powers, City Manager Arnold stated that the insurance coverages would be equal to the City's insurance limits.

Commissioner Smith stated that this was an innovative approach to support the community.

In response to a question from Commissioner Walsh, City Manager Arnold stated that DHA had used a similar lease agreement in the past so a template was available.

DHA Executive Director Douglas Faust stated that the agreement had been customized to meet the needs of the City.

Mayor Garrett thanked DHA for approaching the City and appreciated the great opportunity.

On a motion by Commissioner Smith, second by Mayor pro tem Powers; and, all voting "aye," the agreement was authorized as recommended.

UPDATE TO SERVICE DELIVERY STRATEGY (SDS) AGREEMENT.

City Manager Arnold recommended adoption of Resolution R-19-02 updating the existing Service Delivery Strategy (SDS) for DeKalb County and the municipalities located within DeKalb County. She stated that the update was required due to the incorporation of the City of Stonecrest. She added that the amended SDS would remain in force and in effect until October 31, 2026. She also recommended the City Commission to authorize the Mayor to approve any changes that might be made as long as the agreement remained substantially similar.

In response to a question from Mayor Garrett, City Manager Arnold stated that none of the other components of the SDS would be modified except for the addition of the City of Stonecrest.

In response to a question from Mayor pro tem Powers, City Manager Arnold agreed that the City of Tucker had been added to the list in the previous year.

On a motion by Mayor pro tem Powers, second by Commissioner Smith; and, all voting "aye," Resolution R-19-02 was adopted.

RIGHT OF WAY AGREEMENT WITH CROWN CASTLE FIBER LLC.

Project Manager Courtney Frisch recommended adoption of a Memorandum of Understanding (MOU) with Crown Castle NG East LLC for the purposes of installing a small cell network within the City. She stated that Crown Castle was a telecommunications carrier with fiber-based telecommunications facilities and infrastructure and had registered as a utility company with the City. She stated that a small cell network consisted of a series of low-powered antennas (nodes) that provided coverage and capacity, similar to a cell tower. She added that each small cell node could communicate wirelessly by means of radio waves to internet and cellular phone

systems. She stated that a small cell network was an important means of increasing cellular network capacity, maintaining internet and cellular speeds and advancing to a 5G cellular communications network. She stated that Crown Castle had an outdoor lighting agreement in place with Georgia Power for the installation of their technology onto existing streetlights and a pole attachment agreement with Georgia Power and AT&T for attachments onto utility poles. She stated that before the recent Federal Communications Commission (FCC) ruling, the City had worked in collaboration with the Georgia Municipal Association (GMA) and Crown Castle to draft the proposed MOU for the installation of a small cell network in the City of Decatur. She added that the recent FCC ruling limited local authorities in some of these matters.

In response to a question from Commissioner Drake, Kimberly Adams with Crown Castle stated that the range of the pole would depend on the location and explained their functioning.

In response to a question from Mayor pro tem Powers, Ms. Frisch clarified that there was an existing agreement between Crown Castle and DeKalb County for streetlights and a new agreement would be required for traffic signals.

In response to a question from Commissioner Drake, Ms. Adams and Ms. Frisch concurred that they would have to work on finding the poles that would be accessible for the City's purposes.

In response to a question from Mayor Garrett, Ms. Adams stated that the height of the pole would be limited to 50 feet or below according to the agreement.

In response to a question from Mayor pro tem Powers, Ms. Adams stated that her team would work with the Public Works department on encroachment permits, lane closure permits and other standards stated in the MOU.

In response to a question from Commissioner Walsh, Ms. Adams stated that individual cell phone signals could be enhanced with the help of the poles.

In response to a question from City Manager Arnold, Ms. Frisch stated that only two companies had approached the City offering their services. She added that the MOU would not restrict other carriers from approaching the City in future.

In response to a question from Mayor Garrett, Ms. Frisch stated that she was not aware of any restrictions on the number of carriers mentioned in the recent FCC ruling.

In response to a question from City Manager Arnold, Ms. Adams stated that Crown Castle would install an independent fiber network.

In response to a question from City Manager Arnold, Ms. Adams stated that the fiber network could be made available to other companies.

In response to a question from City Manager Arnold, Ms. Adams stated that the hardware installed by Crown Castle could be used by multiple parties.

In response to a question from Commissioner Smith, Ms. Adams explained the functioning of the poles if used by multiple companies.

In response to a question from Mayor Garrett, Ms. Adams displayed a photograph of a traffic pole which was used by four carriers.

In response to a question from Mayor Garrett, Ms. Frisch stated that the MOU did not include the dimension and related details. Ms. Adams stated that the specific details would be provided during the permit application process.

In response to a question from City Manager Arnold, Ms. Adams stated that the currently proposed devices would be working on a 4G network and would have to be upgraded to a 5G network in future.

In response to a question from City Manager Arnold, Ms. Adams stated that Crown Castle had been working on the MOU with the City since 2018 and wished to enter the permitting phase before February 28, 2019.

In response to a question from City Manager Arnold, Ms. Adams stated that Atlanta was the largest market that Crown Castle had been working with in Georgia.

In response to a question from Mayor Garrett, Ms. Adams stated that they had also worked with the City of Brookhaven.

In response to a question from Commissioner Smith, Ms. Adams stated that the boxes on the poles were being used for public art in several cities.

On a motion by Commissioner Drake, second by Mayor pro tem Powers; and, all voting “aye,” execution of the agreement was authorized as recommended.

GEORGIA POWER FRANCHISE AGREEMENT.

Assistant City Manager David Junger recommended the approval of Ordinance O-19-01 authorizing the extension of the franchise term of Georgia Power until March 23, 2019. He stated that the agreement would address the use of the City’s rights-of-way by Georgia Power primarily for the purpose of transmitting and distributing electricity. He stated that the current franchise agreement would expire on January 23, 2019. He requested an extension of 60 days to allow additional time to finalize the franchise agreement and stated that Georgia Power was agreeable to the short extension.

On a motion by Commissioner Smith, second by Mayor pro tem Powers; and, all voting “aye,” Ordinance O-19-01 was adopted.

MUNICIPAL ELECTION QUALIFYING FEES.

City Manager Arnold recommended that the City Commission set the qualifying fee for City Commission at \$360 and at \$35 for the Board of Education. She stated that both fees were determined based on the provision of the State of Georgia Election Code. She added that the

November 5, 2019 General Election would be held for three City Commission posts and two Board of Education posts.

Mayor Garrett explained how the fee was determined.

On a motion by Mayor pro tem Powers, second by Commissioner Smith; and, all voting “aye,” the municipal qualifying fees were approved as recommended

RESOLUTION AUTHORIZING THE PREPARATION OF A HISTORIC PRESERVATION FUND GRANT APPLICATION.

City Planner Aileen de la Torre recommended approval of Resolution R-19-03 authorizing city staff to submit an application to the Georgia Department of Natural Resources Historic Preservation Division (HPD) for the purpose of securing a grant from their Certified Local Government Survey & Planning Grant program. She stated that the grant would fund an update to the City of Decatur’s Citywide Historic Resources Survey conducted in 2009. She stated that the total project cost for the survey update was estimated to be \$25,000 and if awarded, the grant would pay 60% of the cost with a required local match of 40%. She stated that the City’s share would be approximately \$10,000. She stated that \$40,000 had been set aside in the fiscal year 2018-2019 budget for the survey update.

In response to a question from Mayor Garrett, Ms. de la Torre explained the cost breakdown for the survey.

In response to a question from Commissioner Walsh, Ms. de la Torre stated that approximately 1,200 properties could be surveyed if the grant was awarded.

In response to a question from Commissioner Walsh, Ms. de la Torre stated that the survey would include commercial and residential properties.

In response to a question from Commissioner Walsh, Ms. de la Torre stated that locally designated historic districts would not be included in the survey.

In response to a question from Commissioner Walsh, Ms. de la Torre stated that the National Register of Historical Places included locations that were given an honorary title but that this offered limited protections.

In response to a question from Mayor Garrett, Ms. de la Torre stated that data from the survey could be utilized by various groups and there had been an interest from neighborhood groups to gather such information.

On a motion Commissioner Smith, second by Mayor pro tem Powers; and, all voting “aye,” Resolution R-19-03 was adopted.

REQUESTS AND PETITIONS.

There were no requests or petitions.

REPORTS AND OTHER BUSINESS.

City Manager Arnold presented an update regarding the interim Operating Agreement with electric scooter companies. She stated that the agreement had been sent to the representatives of Limebike and Bird Rides, Inc. and they had been asked to return the executed agreements by January 25, 2019. She mentioned the key points included in the agreement.

In response to a question from Commissioner Drake, City Manager Arnold stated that the agreement would be in effect for 90 days. She added that during this 90-day period city staff would work on an ordinance which would include the rules of the road and enforcement details.

In response to a question from Mayor Garrett, City Manager Arnold stated that the agreement required the provision of contact information of the electric scooter companies and provided a timeline within which obstructing or dysfunctional electric scooters would have to be removed from the City.

Commissioner Walsh congratulated City Manager Arnold, Finance Director Russ Madison and the Finance team on a clean audit.

Commissioner Walsh stated that the Run with the Dogs 5K held on January 12, 2019 was a highly successful event and congratulated all the organizers.

Commissioner Walsh stated that she was looking forward to the 2019 Mayors' Day Conference organized by the Georgia Municipal Association (GMA) on January 25, 2019.

Commissioner Smith thanked Mr. Madison and his team for the audit presentation and the work that went into receiving a clean opinion.

Commissioner Smith invited everyone to the State of the City organized by the Decatur Business Association to be held on Tuesday, January 29, 2019 at 6:00 p.m. at the Decatur Conference Center, 130 Clairemont Avenue.

Commissioner Smith recognized and thanked all of the volunteers who worked in honor of Martin Luther King Jr. Day during the annual service weekend.

Commissioner Drake thanked Mr. Madison and his team for the audit presentation.

Commissioner Drake lauded Ms. Threadgill and Mr. Downs for their hard work.

Mayor pro tem Powers offered his condolences to the family of Littleton Hugh "Hutch" Moore, III.

Mayor Garrett invited everyone to the State of the City.

Mayor Garrett thanked all the volunteers who worked in honor of Martin Luther King Jr. Day.

Mayor Garrett thanked Mr. Madison and his team for the audit presentation.

There being no other business, the meeting was adjourned.

Meredith Roark

City Clerk