

**CITY OF DUNWOODY  
DECEMBER 15, 2008  
COUNCIL WORK SESSION MINUTES**

The Mayor and Council of the City of Dunwoody held a Work Session on Monday, December 15, 2008 at 7:00pm. The Work Session was held in the Francis Asbury Room at the Dunwoody United Methodist Church located at 1548 Mount Vernon Road, Dunwoody, Georgia 30338. Present for this meeting were the following:

District 1, Post 1	Denis Shortal, Council Member
District 3, Post 3	Tom Taylor, Council Member
At Large, Post 4	Robert Wittenstein, Council Member
At Large, Post 5	Danny Ross, Council Member
At Large, Post 6	John Heneghan, Council Member
	Ken Wright, Mayor

Mayor Ken Wright called the meeting to order.

**PLEDGE OF ALLEGIANCE:** The Pledge was led by Councilman Heneghan.

Mayor Wright called for opening public comments.

**PUBLIC COMMENT:**

Gerry Penn – Has history working with Code Enforcement and presented Council with copies of sample banner and sign violations for the past several years. She hoped the Council does not make it less restrictive to hang up banners and signs, as it invites clutter. In Sandy Springs, all the banners require permits with a sticker on them to show who has been permitted to hang the banner.

Ms. Harris – Stated that she noticed in the Zoning Code, on page 261, Section 4-54, concerning retaining walls, it adds the word “side” to “property line,” which is a mistake and should be taken out.

There were no more Public Comments at that time.

**PRESENTATION OF APPRECIATION FOR COMMUNITY**

Beverly Wingate – About a month ago, she volunteered to get some items the City needed and she was there to present those gifts that evening, courtesy of some charitable organizations in the City. Individual members of the organization got up to present their gifts to the Mayor and City Council. *Citizens for Dunwoody* presented the Council an American flag and a Georgia flag to put inside City Hall. *Dunwoody Homeowner’s Association* presented the City with name plates for each Council member and the Mayor. *Dunwoody Women’s Club* presented the Mayor a gavel and name badges for the Mayor and Council. Ms. Wingate then wanted to send the City Council her best wishes for the future.

Prior to continuing to the agenda, the Mayor suggested the creation of two committees, the Finance Committee and the Legislative Committee and suggested Councilmember Wittenstein to chair the

Finance Committee and Councilmember Taylor to chair the Legislative Committee. Both accepted their posts.

The Mayor further wanted to relay his knowledge that there are nine (9) billboard applications currently filed and pending with Dekalb County for locations all over Dunwoody. They were filed on December 15<sup>th</sup> and have not yet been approved.

#### **CHAPTER 7, BUILDING CODE:**

Councilmember Wittenstein commented that he thought the watermark for bringing buildings back into code only at 50% remodeling is too high and would like to see it lower. Jeff Timler, Community Development Director, responded that most jurisdictions have the threshold at 50%, but there is no problem that he can detect to make it lower, but some circumstances may come into play. The 50% threshold would help property owners in case of a catastrophe and will cause less financial burden to the owner. Sometimes it would not be cost effective to make repairs with lower threshold and the owner would choose to demolish instead.

Councilmember Wittenstein also commented that the ordinance does not provide a threshold amount for internal repairs that can be done without a permit and was wondering whether it makes sense to force everyone to get a permit for any measure of internal repairs. Jeff Timler stated that this figure usually applies only in cases of certain electrical repairs and other sensitive works. Councilmember Wittenstein stated that people should be able to make small repairs to their house without having to get a permit every single time. Councilmember Shortal suggested that maybe a smaller amount than the original proposed \$5,000 threshold should be added. Incoming Community Development Director Jennifer Peterson stated that the requirement for a permit usually depends on the factual circumstances of the particular work and is based on International Codes which have very complex determination criteria for when a permit is required. The International Codes also have written exemptions for various scopes of work. It's a constant education for a local government as to what work requires a permit and it becomes a continuous discussion with the citizens. Councilmember Shortal wants to put something in the ordinance to take care of emergency situations so people don't experience problems when, for example, their water heater bursts and repairs are needed immediately with no time to apply for a permit.

#### **CHAPTER 14, LAND DEVELOPMENT AND ENVIRONMENTAL PROTECTION:**

Councilmember Wittenstein noticed that the Appeals Board, pursuant to the ordinance, was allowed to grant variances for development up to the 25ft barrier to the water line and that seems too close. There is a full range, of course, in the ordinance, from 75 feet to 25 feet for a variance, but that discretion always depends on who sits on the Appeals Board. Upon question to the staff, an unidentified audience member stated that the range in the ordinance is the state minimum and is continuous from Dekalb's ordinance, which has the same figures.

Councilmember Heneghan asked how close the Tree Protection ordinance is to Dekalb's. Jeff Timler replied that it's a much more comprehensive version that includes a Tree Bank. An arborist will be present in the City to make these determinations. The ordinance does not require a Tree Board of citizens. It also allows residential owners to cut down trees on their property while developers have to get permits for big projects which would uproot a large amount of canopy. Councilmember Wittenstein wanted to know whether this ordinance would allow for cutting down of as many trees as an owner would want. Jeff Timler responded that in determining arrangements of lots, it is good to know which trees you want to protect so you can make the best lots with proper

protected trees. The City staff will make sure that as much is protected as possible in development of property. Councilmember Shortal added that there needs to be a balance between tree protection and owners' rights.

Councilmember Wittenstein commented that a requirement of 115% performance bond for developers in terms of tree protection seems a bit excessive. Jeff Timler responded that it was necessary to protect the vulnerable trees on the property for a certain period of time after development to ensure their continuous viability.

Councilmember Wittenstein also commented that the 5-foot wide sidewalks seem too wide. Richard Meehan, Director of Public Works, responded that the State road requirements are that sidewalks were a minimum of 5 feet wide.

#### **CHAPTER 16 – OFFENSES AND VIOLATIONS:**

Councilmember Wittenstein stated that the number of things made illegal by this ordinance boggles the mind. He stated that most of these he does not have problems with but is concerned about the prohibitions of drinking in public parks in Article I, Section 3(b) of the ordinance. This discourages gathering for picnics and should be taken out. He thinks that any problems, such as excessive drinking or littering, can be taken care of under other provisions of the Code and State law. He also wants to know if it is useful to have a provision for registration of commercial building alarms. Chief Grogan responded that there is a better ordinance that allows for an appeals process and it can be put in at a later date. However, generally, the false alarm ordinance helps the Police Department because every time they respond to unnecessary calls, it takes away from the manpower available on patrol. A more extensive ordinance can be enacted in the future to prevent false alarms. There's time to do it once the Police Department is in place.

Councilmember Wittenstein also wanted the Clean Air provisions in the ordinance to be tougher on businesses in terms of smoking regulations. Councilmember Taylor stated he wanted to make sure that the graffiti ordinance goes along with the Gwinnett Provisions and that it is reasonable against all property owners. Assistant City Attorney Felgin stated that this is the provision that the surrounding cities use and it covers all the bases that were covered in the Gwinnett provision, except the Gwinnett provision has certain requirements for a Court that the City can't include as the Municipal Court does not have such an expansive jurisdiction. Councilmember Wittenstein also wanted to know whether the ordinance sets fines for the individual violations. City Attorney Anderson stated that those are usually recommended by the Municipal Court Judge and approved by Council separately and not included in the general offenses ordinance.

#### **CHAPTER 17 – TRAFFIC AND PUBLIC ROADWAYS:**

Councilmember Wittenstein wanted to know where the one-way street provisions are that were in the previous draft. Richard Meehan stated that they were taken out of the ordinance because they are already in a State standards book that is adopted by the ordinance. It doesn't prohibit the City, however, from designating what is and is not a one-way street.

#### **CHAPTER 21 - SIGNS:**

Councilmember Wittenstein opined that the ordinance prohibits neon signs and many businesses have neon "open" signs and we don't know whether we would want to prohibit them and make them suddenly nonconforming. Also, there is no prohibition for tri-vision signs even though there

is a definition of such. Also, there is no prohibition for “Real Estate Signs.” Jeff Timler stated that the definition for the Standard Informational Sign takes care of the Real Estate Signs problem. Councilmember Shortal asked whether the City would want to establish a time period to allow an unlimited amount of political signs. Jeff Timler responded that this provision is still in the ordinance as Section 8 on page 13. Councilmember Shortal then questioned as to whether the period of unlimited political signage should be limited to sixty (60) days prior to the election instead of starting at the qualification period. City Attorney Anderson stated that it is tough to restrict political speech, especially since qualifying for a post is the start of the campaign period for a particular candidate and people may want to put up signs on their property.

Mayor Wright asked to include in the ordinance an amortization provision for non-conforming signs. City Attorney Anderson replied that Georgia Courts have called it a Constitutional Taking if non-conforming signs are restricted in an amortization provision and forced to be taken down after a certain period of time without compensation. Mayor Wright replied that he still wanted to add those amortization provisions into the ordinance.

Jeff Timler, in response to additional questions concerning Real Estate Signs stated that the Standard Informational Sign can be up to four (4) feet high and twenty-four (24) square feet total and covers what would be Real Estate Signs.

#### **CHAPTER 23 – STREETS AND SIDEWALKS:**

Councilmember Heneghan stated that there are a number of bus shelters with advertising on them and wanted to know when MARTA will start paying the City the franchise fees for those advertisements. City Attorney Anderson responded that MARTA will contact the City once the City becomes the enforcing entity to have that discussion.

#### **CHAPTER 27 – CITY OF DUNWOODY ZONING ORDINANCE:**

Councilmember Wittenstein had a problem with the number of parking spaces for commercial establishments – they are too many and may result in building too big a parking lot that isn’t used to that extent. In addition, he would also like to see a map to go along with the Sexually Oriented Business portion of the ordinance to see where those businesses are placed under the Zoning Ordinance. City Attorney Anderson stated that at that point the City was attempting to get that map together for the Thursday meeting.

Councilmember Shortal stated that he did not see regulations of parking on the street in front of residential homes. Richard Meehan responded that some parking restrictions are located in Chapter 23 – Streets and Sidewalks. Councilmember Wittenstein thought that street parking is allowed in front of a residence as long as the car is not on someone’s property. Richard Meehan responded that, in Chapter 17 – Traffic and Public Roadways – Article VI, it covers that in the abandoned vehicles provision for commercial vehicles. Councilmember Shortal reiterated that he would like to see a limitation on parking cars in front of houses. Councilmember Heneghan stated that this needs to be reasonable because some houses have large families that require several cars to be parked on the street in front of the house.

Mayor Wright suggested that the number of unrelated persons living in one house be reduced from the current amount of six (6). City Attorney Anderson stated that in Athens, Courts have allowed as little as three (3). Councilmember Heneghan wondered whether separate licensing can be created for such houses (like treatment centers) in residential neighborhoods – maybe a Special Use permit.

Jeff Timler responded that the International Property Maintenance Code addresses many of these issues and the City will adopt it separately soon as well. Councilmember Wittenstein stated that, from his point of view, if the six (6) non-related people are not disruptive and want to share a house near the college, he doesn't see a problem with it. Councilmember Taylor stated that this has created problems with some houses in Dunwoody and he also wants to see the "6" figure lowered. Councilmember Shortal suggested that it be lowered to four (4). Mayor Wright reminded the Council that Supplemental Regulations of the Zoning Ordinance have a few exceptions to these requirements.

### **COMMUNITY COUNCIL**

Mayor Wright stated that, after reviewing several opinions, he would prefer to put the Community Council back into the Zoning Ordinance as he believes it is an important part of a community's participation in the City government. He stated that, for the City, one community council would suffice. Councilmember Wittenstein and the rest of the Council agreed that one would suffice.

### **SEXUALLY ORIENTED BUSINESS ORDINANCE**

Councilmember Wittenstein stated again that he would like the zoning map of the City to show where those businesses could potentially be located. He also suggested having tougher restrictions on smoking in those establishments just like he suggested in general for bars. The Council asked whether this was the final version of this ordinance and Assistant City Attorney Felgin informed the Council that it was pretty much the final version with only the distances to be filled in.

### **BUDGET FOR 2009 FISCAL YEAR**

City Manager Hutmacher stated that at this point, the budget was a moving draft and still dynamic and will maybe have to be amended during the year to make sure that there is a surplus at the end of the year, which he is adamant that there will be. It is difficult to tell now as to how and what revenues will come in and he feels comfortable of the balance sheet. In addition, the budget contemplates 18 police cars and they're looking to possibly lease more in the future. At first, the 18 cars will be running 24-hours per day to accommodate all the officers until such time after the first year that the City has more money to buy or lease police cars for each officer. Asked about the residual value of police vehicles, Chief Grogan stated that there is almost no residual value left after 5 years, especially with continuous use. Councilmember Ross stated that the City should look more towards a lease/purchase options on the cars as it would be more financially viable and lets someone else worry about the residual value of the vehicles.

Councilmember Wittenstein said that the budget shows a \$500,000 transfer to a contingency fund – showing room for additional start-up expenses. He was wondering how much is attributed to the Dekalb County police expenses. City Manager Hutmacher stated that the budget calls for \$400,000 per month for the County's police services – which was the County's last offer and, hopefully, will not be increased. As soon as expenses start being paid, the City will be able to show a cash-flow chart to show continuous expenditures for personnel with March showing double cost as the Police Department will start getting prepared while still paying Dekalb County for the services during that month until the April 1<sup>st</sup> start-up.

Councilmember Shortal asked the City Manager to address employee benefit packages. City Manager Hutmacher stated that they're working with a broker and have met with the GMA and

looked at what the City can afford and what it needs and what's competitive, but there is no recommendation ready quite yet.

City Manager Hutmacher also stated that some non-departmental costs are attributed to legal services and he could not recall the breakdown of others in that category at that time.

**BUSINESS LICENSE FEE PROPOSALS**

City Attorney Anderson presented the fee structure proposal to the Council and stated that it should be the same as the current one in Dekalb County. Councilmember Shortal pointed out an error where the fee structure refers to "County" instead of "City." He asked whether the fee per employee, \$4.00, was for a full time and/or part time employee and was assured that it was for either. JoAnne Tuttle, Revenue Director, when asked about the change in use of State Taxation instead of Federal taxation for businesses applying for licenses, stated that the reason for the change is because some businesses have offices throughout the country and this method would assure a more accurate break-down of their business in the State. Councilmember Ross noticed that home businesses have a higher rate. City Attorney Anderson stated that the same flat fee applies for businesses with income up to \$20,000 and the rate applies for gross receipts higher than that amount. However, he agreed that after that the home businesses do get charged more. Councilmember Wittenstein asked how the City will deal with businesses that have more than one office in the State. JoAnne Tuttle responded that those businesses will be asked to provide a breakdown of their income from various jurisdictions.

**OTHER BUSINESS**

Councilmember Heneghan stated that the City as well as Kingsley Elementary School have submitted a joint Grant Application to the State for sidewalk improvements on North Peachtree Road. Councilmember Ross discussed a branding competition he was part of as a judge at Dunwoody High School.

There being no further business, Councilmember Taylor made a motion to adjourn the meeting, seconded by Councilmember Ross. The motion carried 6-0 and the meeting was adjourned.

Approved:

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Ken Wright, Mayor

Attest:

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Joan C. Jones, Acting City Clerk

(Seal)