

City Council Meeting Minutes - Final MAYOR AND COUNCIL



Derek Norton, Mayor
Tim Gould, Mayor Pro Tem (Ward 6)
Glenn Pickens (Ward 1)
Latonia P. Hines (Ward 2)
Travis Lindley (Ward 3)
Charles "Corkey" Welch (Ward 4)
Susan Wilkinson (Ward 5)
Kathy Young (Ward 7)

Smyrna Community Center
Magnolia Room
200 Village Green Circle
Smyrna, GA 30080

City Attorney Scott Cochran
City Administrator Joseph Bennett
City Clerk Heather K. Peacon-Corn

**December 04, 2023
7:00 PM**

I. CEREMONIAL MATTERS

1. Roll Call

Present: 7 – Mayor Pro Tem Tim Gould, Councilmember Glenn Pickens, Councilmember Latonia P. Hines, Councilmember Travis Lindley, Councilmember Charles Welch, Councilmember Susan Wilkinson, Councilmember Kathy Young

Also Present: 1 – Jeffrey Tucker

Absent: 1 – Mayor Derek Norton

Staff: 7 – Jennifer Bennett, Joe Bennett, Dan Campbell, Lisa Collins, Brian Marcos, Russell Martin, Heather Peacon-Corn (virtual), and Joey Staubes

2. Call to Order

3. Invocation and Pledge of Allegiance

A. Pastor Shell Osbon, Life Church Assembly of God (4100 King Springs Rd)

4. Agenda Changes

5. Mayoral Report

II. DISCUSSION / ACTION ITEMS

*Public comment during this portion of the Agenda must be limited to matters on the Agenda for action. If you wish to be heard, please sign up with the City Clerk, come to the podium when called by the Mayor, state your name and address for the record and make your remarks. The time allotted for each speaker is as follows: **Public Hearing - Five (5) Minutes***

6. Proclamations and Presentations

**A. PRC2023-027 Proclamation in Recognition of the First Introduction of the Equal Rights Amendment
*Ward 3 Councilmember - Travis Lindley***

Councilmember Kathy Young presented the following proclamation:

A PROCLAMATION
BY THE MAYOR OF THE CITY OF SMYRNA
In Recognition of The First Introduction of the Equal Rights Amendment

Whereas: the "Equality of Rights under the law shall not be denied or abridged by the United States or by any state on account of sex"- section 1 of the currently unpublished 28th Amendment of the US Constitution; and
Whereas: on December 10, 1923, the Equal Rights Amendment (ERA), written by Alice Paul and Crystal Eastman was introduced to Congress by Senator Curtis of Kansas three years after the ratification of the 19th Amendment that gave women the right to vote; and
Whereas: The National Woman's Party sponsored the bill and continued grassroots activism across the country to advocate that it would one day become law; and
Whereas: Representative Martha Griffiths reintroduced the bill to Congress in 1971, finally being approved by the US House of Representatives on October 12, 1971, and by the US Senate on March 22, 1972 sending the ERA to the state legislatures for ratification; and
Whereas: by 1977, 35 of the 38 necessary States had ratified the amendment. Nevada was the 36th State to ratify in 2017. Illinois followed in 2018 and finally Virginia in 2020 bringing the total ratification to 38 States, the number provided by Article V of the US Constitution; and
Whereas: there are several organizations like National Organization for Women and others that continue the fight for ratification in the remaining 12 States, Georgia among them; and
Whereas: it has been over 50 years since the ERA left Congress on the road to ratification. It has been 100 years since Alice Paul and the National Woman's Party asserted that women should be equal with men; and
Whereas: Under the leadership of President Triana Arnold James, the Georgia National Organization for Women and its members will continue the effort to enshrine equality for women in our Constitution; and
Therefore: I, Derek Norton, Mayor of the City of Smyrna, Georgia do hereby acknowledge and commemorate the 10th Day of December as the Annual Day of Recognition of the Introduction of the Equal Rights Amendment.

Triana Arnold James, President of the Georgia National Organization of Women, accepted the proclamation and thanked the Council for the recognition.

B. PRE2023 - 027 Smyrna Fire Department recognition of Smyrna Safe Businesses.

1. -Allison Hooks CPA
2. -Cobb Home Sales
3. -Atkins Park Tavern Smyrna
4. -The Partnership of Atlanta
5. -Powers Electrical Solutions
6. -The Viking Alchemist
7. -Tanner Goldsmith State Farm
8. -Big Bear Sports

Fire Chief Brian Marcos presented certificates to the eight businesses listed.

7. Community Development Items

- A. **Z23-004** Public Hearing - Zoning Amendment - Z23-004 - Request to modify the currently approved density, site plan, and elevations - Land Lot 690 & 691 - 5.4 acres - 4788 & 4840 Hanson Drive and part of 4838 S Cobb Drive - Jason Lewis
Ward 7 Councilmember – Kathy Young

Russell Martin, Community Development Director, presented the following background:

Mayor & Council Decision:

A motion to approve the request failed by a vote of 3-4 at the June 5, 2023, meeting. There was no additional motion made to deny the request. Therefore, the application will be brought to Mayor & Council for a final vote at the December 4, 2023, meeting. Since the June 5, 2023, meeting the applicant has agreed to revise the unit mix of the 295 units, from 50% reserved for occupants aged 55+ to 60%, and 50% of units unrestricted to 40%. Additionally, four units will be set aside for first responders working in Smyrna.

PROJECT DESCRIPTION

The Mayor and Council approved the annexation and rezoning (Z08-010) of the subject property from R-20 (Cobb County) to MU-Conditional (Smyrna) on December 15, 2008 by a vote of 5-2. The approval of the rezoning allows for the construction of a mixed use development that would consist of a two-story 69 unit assisted living facility and a four-story mixed use building consisting of 120 independent senior living units and 70,000 sq. ft. of commercial retail and office space. The development was rezoned to a specific site plan and building elevations, which provided an assisted living facility on the southern portion of the site (phase I) and a mixed-use building (retail and office on the ground floor and age restricted condominiums and senior apartments on the top floors) on the northern portion of the site (phase II). Both building were proposed to have parking structures underneath each building to support each use. The independent senior living units were to be accessed off Hanson Drive and the assisted living facility was to be accessed off South Cobb Drive. The specific site plans and building elevations were approved as conditions of the zoning. Subsequently, in September 2013, the applicant requested a zoning amendment for assisted living facility in phase I. The zoning amendment for the assisted living facility dealt with modifications to the site plan and building elevations. These modifications included the elimination of the structured parking and the increase of the number of beds from 78 beds to 108 beds because the applicant wanted to add a terrace level to address geological and topographical issues on site. The Mayor and Council approved the zoning amendment by a vote of 7-0. Since the approval of the zoning amendment, the assisted living facility has been constructed and has received its Certificate of Occupancy.

The applicant requested a zoning amendment to modify the site plan and building elevations in Zoning Amendment Z15-012 for the independent senior living on the northern portion of the site (phase II). The previous zoning plan from Rezoning Case Z08-010 allowed a mixed use building with 120 independent senior living units over 70,000 sq. ft. of commercial retail space. The building included a four-story building over a two-level parking deck. The applicant acquired the adjoining residential property at 4788 Hanson Drive (~0.6 acres) and annexed and rezoned the property to

include it into the overall development project. The zoning plan was approved to eliminate the 70,000 sq. ft. of commercial retail space and increase the number of independent senior living units from 120 to 200. This resulted in a change from a four-story building over structured parking to a ten-story building over structured parking. In addition there were slight modifications to internal site circulation and access.

The currently approved zoning plan (Z15-012) includes a building ten-stories tall on top of structured underground parking garage with 200 independent senior living units at 243,000 sq. ft. and 37,500 sq. ft. of common area and accessory uses for the exclusive use of the residents. The common area for the development includes a lobby, reception, staff offices, multiple dining venues, a commercial kitchen, a teaching kitchen, a general store/coffee shop, theater, library, wellness center, beauty shop, business center, arts and crafts room, and an indoor swimming pool.

The applicant is requesting a zoning amendment to the currently approved plan in Z15-012 for (phase II) with an increase in density, as well as site plan and building elevation modifications. The applicant is proposing to develop the site independently from the memory care facility as originally planned. The applicant is requesting to maintain the height of the currently approved plan at 133 feet but increase the unit count from 200 independent senior living units to 295 units. The 295 units will be 50% 60% independent senior living units and 50% 40% without age restrictions. The increase in units is possible by decreasing the amenity area from 37,500 sq. ft. to 8,930 sq. ft. and additional levels of parking below grade. The proposed amenity area includes a communal kitchen and party room, lounge, fitness room, indoor and outdoor pool, sky deck, pet spa, and conference and game room. Additionally, the roof of the proposed building includes public and private terraces as an additional amenity.

The proposed project also includes a 625 sq. ft. coffee shop accessible for the general public or residents within the development. The proposed zoning amendment also includes a stand alone parking deck with four levels. The fourth level will include a 5,317 sq. ft. restaurant also accessible for the general public or internal residents.

The main building will include three levels of parking below the building, surface parking, as well as a stand alone four level parking deck. The proposal includes 539 spaces compared to the 250 spaces in the currently approved plan.

The applicant is proposing a subsurface stormwater detention facility within the parking deck. The City Engineer has reviewed the proposed location and believes it will be adequate to meet the requirements of the City's Stormwater Ordinance. The final design of the facility will be required during plan review and the permitting process and will be reviewed and approved by the City Engineer.

The applicant is providing a deceleration lane and improvements for the entrance, and new sidewalk along South Cobb Drive. The applicant has worked with the City's Fire Marshal's Office and the City Engineer to make sure the access drive meets City standards.

Adam Rozen, attorney for the applicant, came forward and respectfully requested approval by the Council with the stipulations that have been included with the zoning amendment request.

Discussion took place regarding first responder units and the rental rates at 25%-50% reduction. This would be addressed during the business license application and renewal process.

A public hearing was called, and no one came forward in favor of or in opposition to this item.

Councilmember Kathy Young made a motion to approve item Z23-004, a public hearing and zoning amendment (Z23-004) to modify the currently approved density, site plan, and elevations on land lot 690 & 691 on 5.4 acres located at 4788 & 4840 Hanson Drive and part of 4838 S. Cobb Drive by applicant Jason Lewis; seconded by Councilmember Travis Lindley.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None
Recuse: 0 – None

8. Privilege License and Show Cause Hearing

9. Formal Business

- A. AGR2023-042** Approval to award to K.M. Davis Contracting Co. Inc, 3259 Austell Road, Marietta, Ga 30008, in the amount of \$486,525.00 to be funded from Water CIP for the replacement of the water main from 3791 South Cobb Drive to 4015 South Cobb drive.

Ward 6 Mayor Pro Tem / Councilmember - Tim Gould

Joe Bennett, City Administrator, provided the following background:

At some point in the past, Cobb Marietta Water Authority installed a 20-inch concrete transmission water main. This water line was later turned over to the City of Smyrna Water department. This water main is responsible for supply and demand to wards 3,5,6. The water main replacement will allow City water crews to not only make the water line easier and faster to work on or repair in the future but will also allow the city to maintain proper water supply and demand.

Councilmember Travis Lindley made a motion to approve item AGR2023-042 to award to K.M. Davis Contracting Co. Inc. (3259 Austell Road, Marietta, GA 30008) in the amount of \$486,525.00 to be funded from water CIP for the replacement of the water main from 3791 South Cobb Drive; seconded by Councilmember Charles Welch.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None
Recuse: 0 – None

- B. 2023-223** Authorization for the replacement of The Wolfe Recreation Center PoolPak by Stephens & McRae Mechanical, LLC. (125 Fishers Mill Dr., McDonough, GA. 30252) in the amount of \$637,125.00 to be paid from the General Fund and authorize the Mayor to sign and execute all related documents. *This item will be tabled indefinitely at staff request.*
Citywide

Joe Bennett, City Administrator, explained that this item had been tabled at the last meeting and moved to this meeting. The City is still awaiting confirmation that the PoolPak can be purchased from the manufacturer directly. In order to bring this forward on a future agenda, it must be tabled indefinitely. While waiting for the letter and the delivery of the product, the installation purchase will be brought forward. The PoolPak is the mechanism that heats the water to a therapeutic level as well as remove the used chlorine from the air to create clean air inside the facility. Currently, the unit is a two-compressor unit, but it is functioning only on one now.

Councilmember Travis Lindley made a motion to table indefinitely item 2023-223, the replacement of The Wolfe Recreation Center PoolPak by Stephens & McRae Mechanical, LLC (125 Fishers Mill Dr., McDonough, GA 30252) in the amount of \$637,125.00 to be paid from the general fund; seconded by Councilmember Charles Welch.

The motion to table carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None
Recuse: 0 – None

- C. BCA2023-014** Appointment of Richard Garland, Parks and Recreation Director / Interim Asst. City Administrator, to serve as the Chair of the License and Variance Board as well as appointment of alternate Board member Andrea Worthy, Economic Development Director, to serve as a regular License and Variance Board member alongside Mr. Richard Garland and Mr. Bo Jones effective December 5, 2023.
Citywide

Joe Bennett, City Administrator, provided the following background:

The Deputy City Administrator / License and Variance Board Chair announced her resignation from the City effective the end of October of 2023. As a result, the Chair position of the License and Variance Board became vacant.

Richard Garland, Parks & Recreation Director, has served as a regular Board member the last few years. The other current member of the Board is Bo Jones, Utility Services Director.

Andrea Worthy, Economic Development Director, has served as an alternate member of the board and will now serve as a regular member. Library Services Director Mary Moore will continue to serve as an alternate.

Councilmember Charles Welch made a motion to approve item BCA2023-014, the appointment of Richard Garland, Parks and Recreation Director / Interim Asst. City Administrator, to serve as the Chair of the License and Variance Board, as well as the appointment of alternate Board Member Adnrea Worthy, Economic Development Director, to serve as a regular License and Variance Board member alongside Mr. Richard Garland and Mr. Bo Jones effective December 5, 2023; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None
Recuse: 0 – None

- D. RES2023-012** Approval of RES2023-012 for the adoption of the City of Smyrna Emergency Plan (EOP), approve the plan as attached and authorize the Mayor to sign and execute all related documents.
Citywide

Joe Bennett, City Administrator, provided the following background:

The City of Smyrna is required to maintain and submit a revised Local Emergency Operations Plan to the Georgia Emergency Management Agency on a four-year cycle. Smyrna's proposed plan is based on a FEMA approved template and provides a comprehensive framework for City-wide emergency management in that it addresses the roles and responsibilities of government organizations and provides a link to local, State, Federal, and private organizations and resources that may be activated to address disasters and emergencies in the City of Smyrna. The plan ensures consistency with current policy guidance and describes the interrelationship with other levels of government and will continue to evolve, responding to lessons learned from actual disaster and emergency experiences, ongoing planning efforts, training and exercise activities, and Federal guidance.

Councilmember Travis Lindley made a motion to approve item RES2023-012, the resolution (RES2023-012) for the adoption of the City of Smyrna Emergency Plan (EOP) and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Kathy Young.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None
Recuse: 0 – None

- E. AGR2023-044** Proposed intent to develop a Disaster Recovery Support Program for citizens who have property damage related to an emergency.

Citywide

Joe Bennett, City Administrator, provided the following background:

After sustaining property damage, many citizens are left unsure about damage restoration processes. Citizens are also susceptible to fraudulent contracting services that seek to exploit their circumstances. To assist their citizens in these situations, numerous Metro Atlanta municipalities have established a list of credible general contracting services that the property owner may be referred to for damage restoration.

Smyrna Fire Department requests approval for pursuing a Request for Qualifications for licensed and insured contractors that are qualified to perform selective Disaster Recovery Services for individuals and/or businesses that have sustained property damage.

Councilmember Welch asked if there is a specified criteria for allowing these contractors to be listed. Chief Brian Marcos explained there will be a thorough vetting process which will include response time. Examples of such services would be: water intrusion prevention from roof damage after a storm, structure fires, tree services, etc.

Councilmember Kathy Young made a motion to approve item AGR2023-044, the proposed intent to develop a Disaster Recovery Support Program for citizens who have property damage related to an emergency; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None
Recuse: 0 – None

- F. **AGR2023-043** Approval to extend the Public Art Agreement for the Fanny Williams Legacy Project with Mr. David Wilson through April 2024 as requested by the artist and authorize the Mayor to sign and execute all documents.
Ward 3 Councilmember - Travis Lindley

Councilmember Travis Lindley made a motion to approve item AGR2023-043 to extend the Public Art Agreement for the Fanny Williams Legacy Project with Mr. David Wilson through April 2024 as requested by the artist and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Kathy Young.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None

Recuse: 0 – None

- G. ATH2023-55** Authorization to place the City's Worker's Compensation Insurance program with National Liability and Fire Insurance Company with a \$508,996.00 premium and \$2,500 deductible with Oakbridge Insurance/John Knop as the broker, implement Oakbridge Proactive Services and a 2-3 year plan to reduce claims and lower first dollar/low deductible premiums for next few renewals and authorize the Mayor to sign and execute all related documents.

Citywide

Joe Bennett, City Administrator, provided the following background:

The City's Worker's Compensation insurance program renews on January 1, 2024. The City's coverage has been with Georgia Municipal Association (GMA) for the past 20+ years. Mr. John Knop from Oakbridge Insurance will present an alternative to renewing with GMA. This change would lower costs and provide enhanced, proactive risk management services.

GMA plan carries a \$100,000 deductible per occurrence. The 2023 premium was \$305,000. Total annual average (2019-20223) cost is \$516,996. Proposed National Liability & Fire Insurance Company plan offers a \$2,500 deductible per occurrence for a total annual premium of \$508,996.

Staff would like to recommend the following:

Approval to place the City's Worker's Compensation Insurance program with National Liability and Fire Insurance Company with Oakbridge Insurance/John Knop as the broker.

- \$508,996 annual premium with \$2,500 deductible
- Implement Oakbridge's Proactive Services to improve safety and risk management culture
- Implement 2-3 year plan to reduce claims and lower first dollar/low deductible premiums for next few renewals
- Review claims after 2-3 years of proper proper risk management to determine if taking greater risk is appropriate to lower cost even further

Human Resources and Finance state recommend approval.

Councilmember Travis Lindley made a motion to approve item ATH2023-55 to place the City's Worker's Compensation Insurance Program with National Liability and Fire Insurance Company with a \$508,996.00 premium and \$2,500.00 deductible with Oakbridge Insurance/John Knop as the broker, implement Oakbridge Proactive Services and a 2-3 year plan to reduce claims and lower first dollar/low deductible premiums for next few renewals and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Glenn Pickens.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young

Nay: 0 – None
Recuse: 0 – None

**H. POL2023-002 Approval to update Personnel Policies and Procedures - LVE
1.04 Annual Leave Sell-Back policy
*Citywide***

Joe Bennett, city Administrator, provided the following background:

In July 2022 the Mayor and Council approved a new policy to restore the annual leave sell-back program.

The Mayor and Council have also approved three additional City holidays.

For Police, Detention and E-911 Communications Officers and Fire personnel working 24 hour shifts, holiday hours are embedded in their annual leave accrual rate. With the addition of the three new holiday, annual leave accrual rates have increased to a point where it is difficult for these employees to use their annual leave and bring their year-end leave balance to at or below the maximum, 200 hours (280 for 24/48 Fire personnel).

The current annual leave sell-back policy allows employees to sell-back up to one week of annual leave per year.

Staff recommends approval of the amended the Annual Leave Sell-Back policy to allow personnel who accrue holidays with their annual leave to sell-back up to two weeks per year, assuming they meet the policy's eligibility criteria and authorize the Mayor and City Administrator to sign and execute all related documents.

Councilmember Latonia P. Hines made a motion to approve item POL2023-002 to update Personnel Policies and Procedures – LVE 1.04 Annual Leave Sell-Back Policy; seconded by Councilmember Charles Welch.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young
Nay: 0 – None
Recuse: 0 – None

10. Consent Agenda

Councilmember Travis Lindley made a motion to approve the Consent Agenda as presented; seconded by Councilmember Latonia P. Hines.

The motion to approve carried with the following vote:

Aye: 6 – Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Councilmember Young

Nay: 0 – None

Recuse: 0 – None

- A. MIN2023-119** Approval of the November 15, 2023 Committee of the Whole Meeting Minutes
Citywide

This item was approved on the Consent Agenda.

- B. MIN2023-120** Approval of the November 20, 2023 Pre-Council Meeting Minutes
Citywide

This item was approved on the Consent Agenda.

- C. MIN2023-121** Approval of the November 20, 2023 Mayor and Council Meeting Minutes
Citywide

This item was approved on the Consent Agenda.

- D. ATH2023-56** Authorization to change the April 18, 2024 Committee of the Whole Meeting to Wednesday, April 17, 2024 to accommodate the Mayor's Education Awards scheduled for Thursday April 18, 2024.
Citywide

This item was approved on the Consent Agenda.

11. Ward and Staff Reports

Councilmember Charles Welch – Smyrna Optimist Club is sponsoring the Santa House at Brawner Hall. Information can be found on the website.

Councilmember Travis Lindley – Thanked staff for the Home for the Holidays tree lighting. He also encouraged everyone to check out Highland Rivers Behavioral Health and all they do in the community.

Councilmember Latonia P. Hines – She also thanked staff for the tree lighting event.

Mayor Pro Tem Tim Gould – The Home for the Holidays event was wonderful, and Richard Garland and staff did a great job organizing it.

Joe Bennett – Announced that the administration hall is open and staff is moving back into their offices.

III. CITIZEN PARTICIPATION

*Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the City Council. No subject may be acted upon by the City Council unless that subject is on the agenda and is scheduled for action. If you wish to be heard, please sign up with the City Clerk, come to the podium when called by the Mayor, state your name and address for the record and make your remarks. The time allotted for each speaker is as follows: **Public Comment - Three (3) Minutes***

12. Public Comment

13. Adjournment

Mayor Pro Tem Tim Gould adjourned the December 4, 2023 Mayor and Council meeting at 7:57 PM.

Facilities are provided throughout City Hall for convenience of persons with disabilities.

THIS MEETING WAS PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS IN ACCORDANCE WITH THE NOTICING STANDARDS AS OUTLINED IN O.C.G.A. 50-14-3:
The City of Smyrna website – www.smyrnaga.gov
City Hall, 2800 King Street SE, Notice Boards