

MINUTES
REGULAR COUNCIL MEETING
TUESDAY, JUNE 21, 2011
7:00 P.M.

Present: Mayor Ralph Moore, Councilmembers Angelette Mealing, Shirley Jackson, Brian Jones, and Vince Williams, City Attorney Dennis Davenport, City Manager Steve Rapson and City Clerk Jacqueline R. Cossey.

I. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG:
Invocation by Councilmember Shirley Jackson.

II. MEETING OPEN TO THE PUBLIC TO DISCUSS ITEMS NOT ON THE AGENDA: (2 MIN.)
No public comments were made.

III. ACKNOWLEDGEMENTS OF AWARDS AND ACHIEVEMENTS: None.

IV. CONSENT AGENDA:
All matters listed on the Consent Agenda are considered routine by the Council and will be approved by one motion. No separate discussion will take place on these items. If discussion of any Consent Agenda item is desired, the item will be moved to the Regular Agenda for separate consideration.

1. Approval of the Minutes:
Worksession Meeting, 05/09/2011
Regular Council Meeting, 05/17/2011

On motion of Councilmember Williams seconded by Councilmember Jones and carried, the aforementioned consent agenda was approved.

IV. OLD BUSINESS: None.

V. REGULAR/NEW BUSINESS:

1. **Public Hearing** to consider application submitted by Farid M. Khan for a license for on-premise consumption of malt and vinous with Sunday Sales for SJS Inc. d/b/a Microtel Inn & Suites located at 6690 Shannon Parkway.

City Planner Ann Lippmann led this discussion and stated that this is the first request for an alcoholic beverage license for this location. She added that the application was submitted several months ago and has been reviewed by our City Attorney's office. She further added that everything that was outlined in the City Attorney's review has been addressed. Ms. Lippmann stated that the annual license fee will be \$3,000.00. She added that a request was made last week to reach out to the applicant to find out

where the alcohol will be served and she tried contacting the applicant twice, but did not receive a phone call back.

At this time Councilmember Vince Williams stated that he visited the location and found out that alcohol will be served and they are trying to be very cautious with the location of their alcoholic beverages. He added that it will be located in front of their registration area where they will have complete control over the beverages as they do with their cigarette sales. Councilmember Williams stated that he is comfortable with that. He added that they are trying to expand their customer service level as well as their revenue. He concluded that he applauds them for being diligent and having a watchful eye over the sale and consumption of their alcohol.

Public Hearing opened.

No one came forward.

Public Hearing closed

On motion of Councilmember Williams seconded by Councilmember Jones and carried, the aforementioned request was unanimously approved.

2. **Public Hearing** to consider a petition by the City of Union City for variance from the Stream Buffer Protection Requirements as it relates to stream buffer setback for a trail system located at Ronald Bridges Park on Lakeside Drive.

City Planner Shayla Harris led this discussion and stated that the property is zoned Single Family Residential. She added that back in 2007, the City was awarded a grant by the Georgia Department of Natural Resources. She continued that in 2011 she requested to move the trail from Wyndom Creek to Ronald Bridges Park. Ms. Harris stated that she is currently requesting to waive the 25' buffer as well as the 25' setback that the City requires. She added that the 25' buffer that the State requires will not be disturbed. She concluded that staff recommends approval of the stream variance located at Ronald Bridges Park.

Public Hearing opened.

No one came forward.

Public Hearing closed

On motion of Councilmember Williams seconded by Councilmember Mealing and carried, the aforementioned request was unanimously approved.

3. Council to consider approval of a request to submit the Cooperation Agreement with Fulton County in conjunction with the City's 2012-2014 application for participation in the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant Program (CDBG).

City Manager Steve Rapson led this discussion and stated that this is the cooperative arrangement that we have with the County with regards to eligibility for the CDBG. He added that we submitted a request to fund it for the next three years.

Councilmember Mealing asked if the City's funding would remain the same.

Mr. Rapson stated that it is variable and changes each year, however, it is roughly \$50,000.00 each year. He added that he would actually have to get the award to verify that.

On motion of Councilmember Jones seconded by Councilmember Williams and carried, the aforementioned request was unanimously approved.

VII. RECOMMENDATIONS FROM THE PLANNING COMMISSION:

1. **Public Hearing** to consider a map amendment to the Official Zoning Map for rezoning of property located at 4050 and 4060 Great West Parkway from M-1 to GC submitted by Mortensen Ventures. *Planning Commission recommendation – denial*
City Planner Shayla Harris led this discussion and stated that the property being requested for rezoning is located at Great West Parkway and is currently vacant. She added that the purpose of this request is to allow a child care learning facility on the property. She further added that the petitioner believes that the change in zoning will assist in placing a tenant in the vacant unit. Ms. Harris stated that if this zoning change is allowed in this location, it will promote what she believes to be spot zoning. She stated for clarity purposes, spot zoning occurs when a small area of land or section in an existing neighborhood is placed in a different zone from the neighboring properties. Ms. Harris stated that currently there are no adjacent General Commercial properties located within this area. She added that in 2010, the Union City Comprehensive Plan was adopted by the Union City Comprehensive Plan Steering Committee and City Council and this request does not comply with the adopted 2010 Comprehensive Plan or future development map. Ms. Harris stated that the petitioner did not express major hardship that would prevent them from occupying the location with the current zoning. She concluded that staff believes that the petitioner should seek businesses that wish to utilize industrial related uses as a means to occupy their vacant facility. She added that during the May 2011 meeting, the Planning Commission recommended denial of this request.

Councilmember Williams stated that this request certainly defines spot zoning and for the record, this request would cause spot zoning. He added that he visited the area and has great concerns because of the dilemma it would cause in leasing this type of facility in the Light Industrial area and when we are talking about housing our children there, it is a cause for concern not only for business owners, but certainly for the members of the Council. He concluded that this is something that he would be afraid to deal with.

Councilmember Mealing asked if there was commercial property surrounding the area.

Ms. Harris responded, “No”.

Councilmember Williams asked Ms. Harris if she knew whether there was any talk about a lease as it relates to the terms of a lease.

Ms. Harris responded, “I do not”.

Councilmember Williams stated that we have to be mindful of something such as a 3 year lease, then we will still have the issue causing injury to us with spot zoning.

Mayor Moore stated that for clarification purposes, spot zoning is not always relative to size, it also has to be a financial interest to the land owner.

Public Hearing opened.

John Keyon, representative of Mortensen Ventures, spoke in favor of the request.

James Rainer, Director and Co-owner of Kreative Kids, spoke in favor of the request.

Vickie Mitchell, Controller for Mortensen Woodwork, spoke in favor of the request.

Vera Hill, 7607 McGillicuty Court, spoke in favor of the request.

Mr. Keyon provided a brief rebuttal in favor of the request.

Public Hearing closed.

Councilmember Jones asked City Attorney Davenport if the Council approved this request, if this would set a precedent for the future to be used as case law.

Mr. Davenport stated that municipalities do not typically allow spot zoning in their jurisdiction because of various issues that come along with that which is a degradation of your zoning map as a whole. He added that there is more harm in the spot zoning value of the equation than there is on the precedential side of the equation.

Councilmember Williams asked, how was spot zoning addressed in our Comprehensive Plan.

City Planner Harris responded, “It was not”.

Councilmember Mealing stated that the idea is great and she applauds them for wanting to expand their business, but she cannot support spot zoning because should Kreative Kids go out of business due to economic issues, that zoning will remain for any other businesses that fall under General Commercial and they can move into that facility and she cannot support spot zoning.

Councilmember Jackson stated that it is a great idea, but the wrong location.

Mayor Moore stated that he concurs.

On motion of Councilmember Mealing seconded by Councilmember Williams and carried, the request by Mortensen Ventures to rezone the property located at 4050 and 4060 Great West Parkway form M-1 to GC was unanimously denied.

2. **Public Hearing** to consider a map amendment to the Official Zoning Map for rezoning of property located at 4460 and 4490 Flat Shoals Road from R-6 to TCMU submitted by Senior Neighborhoods, Inc. **Planning Commission recommendation – approval**

City Planner Ann Lippmann stated that this property was located in the original City limits. She added that it has been zoned Residential since at least 1981 and it was rezoned from R-4 to R-6 in 2006 by the same petitioner. She further added that the petitioner came back to us this year with a plan to build a 160 unit senior housing facility as well as associated retail spaces such as office, restaurants, and other businesses to serve the senior residence as well as the surrounding neighborhood. Ms. Lippmann stated that the petitioner was encouraged to consider Town Center Mixed Use in 2006 because that zoning district would support plans outlined in the LCI Study and the request is also in line with the Comprehensive Plan future land use map. She concluded that at their meeting held on May 31, 2011, the Planning Commission recommended approval of this request.

Public Hearing opened.

Robert Young, President of Senior Neighborhoods, Inc., spoke in favor of the request.

Public Hearing closed.

On motion of Councilmember Williams seconded by Councilmember Jones and carried, the aforementioned request was unanimously approved.

3. **Public Hearing** to consider a text amendment to the Zoning Ordinance to Article IX Section 9-4.B.6 as it pertains to “Incomplete Landscape Work”. **Planning Commission recommendation –approval**

City Planner Ann Lippmann led this discussion and stated that this is a companion piece to a text amendment that the Council adopted several months ago to the code of ordinances dealing with incomplete permanent vegetation in the erosion sediment control ordinance. She added that this is the exact same language but this is in the tree preservation and landscape enhancement and deals with “Incomplete Landscape Work.” Ms. Lippmann concluded that the Planning Commission recommended approval.

Public Hearing opened.

No one came forward.

Public Hearing closed.

On motion of Councilmember Meeting seconded by Councilmember Jones and carried, the aforementioned request was unanimously approved.

VIII. OTHER BUSINESS:

City Manager Reports

Mr. Rapson provided the Council with a brief update regarding the following:

- Animal Control Agreement

Mr. Rapson reported that the County recently sent us an agreement regarding animal control and we are in the process of reviewing that particular agreement. He added that we are looking at adjacent municipalities with regards to whether they can provide these services as opposed to Fulton County.

- Fulton County Resolution to prohibit the use of bull hooks on elephants

Mr. Rapson reported that this is a resolution that Fulton County adopted and are requesting other municipalities to adopt with regards to prohibiting the use of bull hooks or similar devices on elephants. Mr. Rapson stated that if it is the Board's pleasure, he would put this item on the agenda to be discussed during the July 2011 meeting.

Council agreed to add the item to the July 2011 agenda for consideration.

- Customer with a Water & Sewer Issue

Mr. Rapson stated that this item involves a water and sewer customer who is also a senior resident with a water disconnect. He added that the Mayor and Council gave him the authority to resolve water issues up to \$2,500.00 and this is much greater than that. He further stated that the current bill is \$8,821.00, however, her normal bill runs somewhere between \$65.00 and \$70.00 per month. Mr. Rapson stated that when the bills were issued staff noticed that her bill went from \$65.00 up to \$4,700.00 and Dwayne was flagged appropriately. He added that Dwayne sent some of his supervisors out to look at the property and there were no obvious water leaks. He further added that they left the property and 30 days later the second bill was issued and that bill was \$3,700.00. Mr. Rapson stated that this time the supervisors went back to the property and lifted the water meter up and the meter was running like a fan. He added that the line that goes into the house split and when it split, that junction broke and when it broke it occurred above a french drain which works perfectly because the water is being dissipated and there is no indication that there is a water leak or a water problem on the site. Mr. Rapson stated that he met with the individual and explained that under these circumstances she should have a plumber to repair the leak. He added that once he received the notice that the plumber repaired the leak he automatically gave her a sewer credit and that credit was about \$2,448.00 which is our normal process for this type of issue. He further added that he also waived the late fees which were \$465.00 and because our staff did not find the problem on the first visit he waived

the second bill which was \$3,700.00. Mr. Rapson stated that his recommendation to the Council is to credit the \$2,448.00, the \$465.00, and the \$3,700.00. He added that she is an elderly lady and since this has occurred the water is turned off and she does not want it turned back on. He further added that she has been drinking bottled water and has been living that way for 30 or 40 days. Mr. Rapson stated that he thought it would be appropriate to credit 50% of that and taking all of those circumstances into consideration. He added that according to Kenneth Johnson, in his 25 years, he has never seen a water leak at this magnitude that did not cause some kind of indication somewhere either inside or outside of the house. He further added that he is currently proposing crediting \$7,717.75 leaving a balance of \$1,103.71 which she could pay off over 12 months. Mr. Rapson stated that the individual is currently praying over the matter. He concluded that he wanted to make sure that the Council was agreeable with this approach and he would notify her that this has been ratified by Council action.

At this time Councilmember Williams stated that he agrees with the crediting, but he cannot support making this senior citizen pay out of her minimal money that she receives monthly and add an extra \$100.00. He added that we have already turned her water off and now she is living off of bottled water. He further added that he was concerned with her physical cleanliness if she is living off of bottled water. Councilmember Williams stated that he thinks that the City should absorb the entire expense. He added that we will not become a free for all, but this is one of our senior citizens. He further added that it was heartless for us to have turned her water off and now she is living off of bottled water. He concluded that, in good conscious, he cannot see charging her anything.

Mr. Rapson stated that the water has been turned off at her direction. He added that we tried to turn the water on but she refused.

Mr. Williams stated that she probably felt that she could not pay the bill on her fixed income.

Councilmember Jackson stated that we do not know that she is living on a fixed income because not all senior citizens are on a fixed income.

Councilmember Mealing stated that the appearance is there.

Mr. Rapson stated that based on the car that she drove, that is not the appearance.

Councilmember Mealing stated that she does not believe that we should be providing charity but we need to look after our own. She added that this lady is a senior citizen and has probably lived in the City for some time. She concluded that all circumstances are not the same and we need to look at these on a case-by-case basis.

Mr. Rapson stated that while we feel like the balance is inappropriate, this City has already paid \$8,000.00 to the City of Atlanta and the City has also paid Fulton County.

After a brief discussion Council agreed to credit the customer \$7,717.75, but the customer must pay the balance in the amount of \$1,103.71 over a 3 year period.

On motion of Councilmember Jackson seconded by Councilmember Mealing and carried, Council agreed to credit the customer \$7,717.75 and the customer must pay the balance of \$1,103.71 over a period of three years. Vote was three-to-one, 3-to-1. Councilmember Jones abstained.

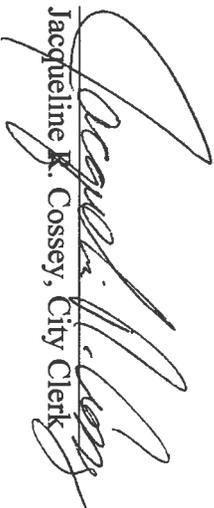
At this time City Attorney Davenport provided a staff report with regards to a 1922 tax deed. He stated that he was approached by a law firm in Atlanta who is working with a bank who is starting to advertise a property in Union City for foreclosure. He further added that this property is improved property and its' approximate value is about \$80,000.00, according to the tax records. Mr. Davenport stated that he was contacted because there was a cloud on the title and they were hoping that Union City would help them by signing a quit-claim deed to remove the cloud. He added that the cloud came in the form of a 1922 tax deed. He further added that apparently Union City bought this property in a tax sale in the 20's. Mr. Davenport stated that there was a break in the chain of title and the records show that in the late 50's somebody started paying property taxes on this property, so something happened between the 20's and the 50's, but there is nothing of record to show what happened. He added that the property changed hands and now that the bank is foreclosing on the property and they have come across this title issue. Mr. Davenport stated that generally in tax deeds procedures, if you were to buy a property today in a tax sale; you do not really own that property until you take measures in what is called foreclosed right of redemption. He added that the owner of the property has about a 12 month period to pay you what you paid at the tax sale plus a 10% premium, but you are required to give him notice of that before he is required to pay you. He further added that the tax deed owner has to notify the person that they bought the property from at the tax sale that they are going to foreclose their right of redemption and they will have a certain period of time to either pay that or the property belongs to the person that bought it at the tax sale. Mr. Davenport stated that he figured that Union City perhaps did not send out the notice to foreclose the right of redemption, but after further research that requirement under the law came into being in 1937. He added that prior to 1937, if you bought property at a tax sale, if you did not get the money from the person that use to own the property within 12 months of the date that you bought it, then it was your property. He further added that based upon the information that was provided to him and his research, he communicated back to the law firm that he could not ask his client to sign a quit-claim deed to this property because by his research, they own the property. Mr. Davenport stated that he explained to the law firm that he would bring this matter before the Council tonight for some direction. He added that the Council's options are to exercise right and dominion over the property which would include filing a petition to quit title, or to say this is surplus property that we did not know that we owned and we do not want to keep it and follow state law and sell it to the highest bidder under seal bids. He then asked the Council how they wanted to respond to this issue.

Council agreed to surplus and sell the property.

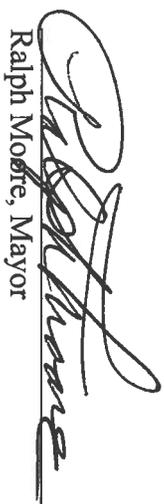
Mr. Davenport stated that he would contact the law firm and inform them that the Council wants to follow state law to surplus and sell the property and they are welcome to bid as the highest bidder.

IX. ADJOURNMENT:

On motion of Councilmember Jones seconded by Councilmember Mealing and carried, the meeting adjourned.



Jacqueline K. Cossey, City Clerk



Ralph Moore, Mayor