

**CITY OF DUNWOODY  
DECEMBER 29, 2008  
COUNCIL MEETING MINUTES**

The Mayor and Council of the City of Dunwoody held a Specially Called Council Meeting on Monday, December 29, 2008 at 7:00 p.m. The Council Meeting was held in the Dunwoody United Methodist Church, 1548 Mount Vernon Road, Dunwoody, Georgia 30338. Present for this meeting were the following:

District 1, Post 1,	Denis Shortal, Council Member
District 2, Post 2	Adrian Bonser, Council Member
District 3, Post 3	Tom Taylor, Council Member
At Large, Post 4	Robert Wittenstein, Council Member
At Large, Post 6	John Heneghan, Council Member
Staff Present:	Brian Anderson, City Attorney
	Warren Hutmacher, City Manager
	Leonid Felgin, Assistant to Acting City Clerk

Mayor Pro Tem Shortal called the Meeting to order and announced that the Mayor and Councilmember Ross were absent for an extended holiday vacation. Mayor Pro Tem Shortal wished the audience a Happy Holidays.

**INVOCATION** led by Council Member Wittenstein

**PLEDGE OF ALLEGIANCE** led by Council Member Bonser.

**MINUTES:** Councilmember Wittenstein motioned to approve the November 30, 2008 City Council Meeting Minutes. Council Member Heneghan seconded. There being no discussion, Mayor Pro Tem called for a vote on the Motion and the motion carried 5-0 and the Minutes approved as presented.

Council Member Wittenstein moved to approve the December 1, 2008 City Council Meeting Minutes. Council Member Bonser seconded. There being no discussion, Mayor Pro Tem Shortal called for a vote and the motion carried 5-0 and the Minutes approved as presented.

Council Member Bonser moved to approve the December 15, 2008 City Council Work Session Minutes. Council Member Taylor seconded. There being no discussion, Mayor Pro Tem Shortal called for a vote and the motion carried 5-0 and the Minutes approved as presented.

**AGENDA APPROVAL:** Councilmember Bonser moved to approve Agenda as presented. Councilmember Wittenstein seconded. There was no discussion. The motion carried 5-0.

**PUBLIC COMMENT:** Mayor Pro Tem requested public comments.

**Bob Dallas** – Stated that it was important to involve the public in City decisions. He proceeded to

point out to Council various items in the Offenses and Violations Ordinance, Chapter 16, which should be carefully looked at as the prohibitions are very extensive. The City doesn't want law enforcement as social workers but should instead be used to protect and stop crime.

Joe DeVita – He wants to support removing the Moratorium on business licensing. He wants to have as much public input as possible to clarify what the Council means by certain wording in ordinance provisions. He also would like to offer the offices of the Dunwoody Chamber of Commerce for the City to use for certain services, should the City need it.

There were no further public comments at that time.

**CONSENT AGENDA:** None.

**UNFINISHED BUSINESS:**

**Chapter 25: Water, Sewers and Sewage Disposal** – The Second Read of Ordinance 2008-12-55, approving Chapter 25: Water, Sewers and Sewage Disposal, of the City Code, was read by Assistant to Acting City Clerk Felgin. Councilmember Wittenstein made a motion to approve Ordinance 2008-12-55 as presented. Councilmember Taylor seconded. Under discussion, Mayor Pro Tem Shortal asked counsel to see whether DeKalb water restrictions are included in the ordinance. Councilmember Wittenstein responded that those DeKalb water restrictions are referenced in Chapter 16, the offenses and violations ordinance. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. (*Ordinance 2008-12-55*)

**Chapter 16, Offenses and Violations** - The Second Read of Ordinance 2008-12-56 approving Chapter 16: Offenses and Violations, of the City Code, was read by Assistant to Acting City Clerk Felgin. Council Member Taylor made a motion approve Ordinance 2008-12-56 as presented. Council Member Wittenstein seconded. Under discussion, Councilmember Heneghan requested to make several amendments: section 2(c) to be removed, section 5(2) to allow breast feeding of children in public, remove Article 2: False Alarms, prohibited noises to be moved to 8:30 p.m. on weekdays and Saturdays. City Attorney Anderson stated that those changes have already been made in the copies presented to Council and so do not require an amendment. Councilmember Wittenstein also expressed concern about some changes. He moved to amend the ordinance to strike the drinking in parks prohibition provision in Article 1, Section 3(b) and also to amend the open contained provisions. City Attorney Anderson stated that the latter has already been changed in the documents presented to Council and thus does not require an amendment. Councilmember Bonser seconded the motion to amend Section 3(b). Under discussion of the amendment, Councilmember Taylor wants to have further discussions before piece-mealing the ordinance apart. Mayor Pro Tem Shortal thinks some parks may still need to have public drinking prohibitions and wants to specify certain parks and conditions. Councilmember Heneghan requested the comment of the Police Chief. Chief Grogan stated that most cities have this prohibition to prevent teenagers from drinking in public parks. Councilmember Taylor agreed with Mayor Pro Tem Shortal to limit the provision. Councilmember Wittenstein stated that many ordinances deal with public drunkenness in other ways. He would like to vote on the amendment as he presented it. Councilmember Taylor asked what the liability will be and City Attorney Anderson stated that,

though there's always some liability, the odds of increased liability are not high. Mayor Pro Tem Shortal called for the vote on Councilmember Wittenstein's amendment and the motion failed 4-1 (Councilmember Wittenstein voting in favor).

Mayor Pro Tem Shortal moved to amend Section 3(b) to only exclude the Nature Center. Councilmember Bonser seconded. Under discussion of the amendment, Councilmember Heneghan stated that it would be easier to make the Nature Center simply get a permit. Councilmember Wittenstein stated that it would be too expensive to get that permit, especially on weekends. Councilmember Heneghan fears this opens an enforcement Pandora's box and Councilmember Taylor agreed. Mayor Pro Tem Shortal was concerned that the Nature Center would otherwise be curtailed from running already advertised events. Mayor Pro Tem Shortal called for a vote on his motion to amend and the motion carried 3-2 with Heneghan and Taylor against.

Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the original motion for Chapter 16 as now amended. The motion carried 5-0. (*Ordinance 2008-12-56*)

**Amendment to Chapter 15** - The Second Read of Ordinance 2008-12-57 approving the amendment to Chapter 15: Business Occupation Taxes, Licensing and Regulation, was read by Assistant to Acting City Clerk Felgin. Council Member Wittenstein made a motion approve Ordinance 2008-12-57 as presented. Council Member Heneghan seconded. City Attorney Anderson explained that the change in the amendment is to have the Georgia Taxes instead of Federal Taxes be submitted by businesses to show proof of gross income. Seeing was no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. (*Ordinance 2008-12-57*)

**ACTION ITEM – Approval of Lowe Engineering contract for provisions of Public Works Services to the City:** Councilmember Bonser moved to approve the contract as presented. Councilmember Taylor seconded. Under discussion, Richard Meehan, Lowe representative and head of the City's Public Works stated that the contract is for the operation of the Public Works Department. He explained the various provisions of the overall contract and other authorizations under it. Councilmember Wittenstein remarked that a lot of money is being paid for these services. Richard Meehan stated that the money is more for just the Public Works Director, but for the entire staff and support. He proceeded to also define street maintenance for the Counsel at the request of Councilmember Wittenstein. City Manager Hutmacher stated that the contract changes slightly since it was looked at last time and there is now only one amount billed for additional street maintenance. He explained to Councilmember Wittenstein how the contract broke down for all the costs. Mayor Pro Tem Shortal explained that the contract is only to pay Lowe for actual cost of certain items beyond the cost of services of Lowe. They tried to do it on a "pay-as-you-go" basis with a maximum amount put it. Richard Meehan explained the additional services provided, such as traffic light maintenance and repair. Councilmember Wittenstein wanted to know how LARP played into any fees. City Manager Hutmacher explained how LARP will be utilized in conjunction with City funds expended on street projects. Richard Meehan explained that so far they've been doing evaluations on streets, sidewalks, signs, curbs and preparing work orders on necessary repairs. Getting to know DOT personnel and figuring out bid packages that will need to be made are also on the list. He stated that a long-term plan is to synchronize and coordinate the traffic signals and work

with DOT on it; they're looking at retiming some signals as well. He explained to Councilmember Bonser about storm preparedness and the costs in the contract for it, as well as the \$750.00 breakdown for the cost of snow removal. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. (**Action Item**).

**Comcast Franchise** – The deferred Second Read of Ordinance 2008-12-53 approving the grant of a video and cable franchise to Comcast of Georgia I, LLC was read by Assistant to Acting City Clerk Felgin. Council Member Taylor made a motion approve Ordinance 2008-12-53 as presented. Council Member Bonser seconded. Under discussion, City Attorney Anderson stated that the latest changes were just sent out but there has not yet been discussed with Comcast and so there is no need to pass it today. Councilmember Wittenstein moved to defer Ordinance 2008-12-53. Councilmember Taylor seconded. There was no discussion. Mayor Pro Tem Shortal called for a vote on the motion to defer and the motion carried 5-0. The item was deferred.

**REPORTS AND PRESENTATIONS** – None.

### **NEW BUSINESS**

**Public Hearing on the Fiscal Year 2009 City Budget** : Councilmember Wittenstein moved to open the Public Hearing on the Budget. Councilmember Bonser seconded. There was no discussion and Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. The Public Hearing on the Budget was opened.

City Manager Hutmacher presented the proposed draft of the Budget to the City Council. He explained the challenges of the budget in these economic times and the lack of history for the City. He assured that taxpayers will not pay more to the City than they had to the County. He explained that the budget anticipates new hires (Finance Director, Court Clerk, etc.) and a new City Hall, service provision by the City and other items. He explained the budget breakdown to various departments and various revenue sources breakdowns for the upcoming year. He suggested certain amendments to the budget.

Council members Wittenstein and Shortal explained to the public how certain expenditures will be made that were previously made by DeKalb County and that appeared on individual property tax bills. City Manager Hutmacher continued to explain the budget expenditures, specifically for the Police Department. The Police Department will provide tasers for its officers. He would also suggest amending the Budget to increase the expenditures for gasoline due to increased number of vehicles. Chief Grogan stated that, for speed detection, they initially thought about 4 radars and 2 lasers, but that may have to be amended as well. Councilmember Wittenstein wanted to know about Emergency preparedness. Chief Grogan added that there will be a mileage limit for take-home cars. He will meet with the DeKalb Sheriff and Doraville Police for use of their jails and prisoner transport. Councilmember Taylor stated that there is a need for Code Enforcement to be backed up by the Police Department when needed. City Manager Hutmacher stated that the Police Department will also be charged with enforcement of City Ordinances as well as State law.

City Manager Hutmacher answered line item questions from Councilmember Bonser, including the

items included in the Miscellaneous funds. Councilmember Wittenstein wanted to make sure the Police Department had enough man-power to patrol Brooke Run Park since the private security firm hired by DeKalb will no longer be there once the City takes over police functions. Councilmember Shortal wanted to know about recruiting. Chief Grogan stated the applications have been posted and a press release made. In two weeks, he will start interviews and physical agility tests, polygraphs, background searches, etc. City Manager Hutmacher explained the cost process of police cars on request by Councilmember Shortal. City Manager Hutmacher also explained the retirement program considerations, stating that the final recommendations have not yet been made but the Finance Department will make such recommendations within a short period of time. He explained options for the GMA pension program and traditional models.

Mayor Pro Tem Short opened the Public Comment portion of this Public Hearing.

Ian Ferdinand – He wanted to congratulate the City Manager on the budget. He also wanted to know how the City plans to make sure that the expenditures match the revenues.

Bob Dallas – He stated that the take-home police cars are a tremendous recruiting tool. He also wanted to discuss the Hotel/Motel tax and urged the City to open discussion on how to use the funds and suggests spending it on private tourism businesses such as hotels. He also wants to have a more public discussion on how the Dunwoody Village should be developed and presented a suggestion to the City Council.

Jim Macasi – He wanted to know what percentage of the Budget is for police and what part of that is budgeted to personnel salaries.

Rick Otmess – He wanted to propose that the City does a straight line depreciation of the assets in the City so if repairs have to be made in the future, there is money available.

Joe DeVita – Stated that 2% of the Hotel/Motel tax has to be spent for tourism to put heads in beds and to do promotions. A 501(c)(6) organization would be best to know how to spend those funds properly and the best thing to do is to bring on board all those who have a stake in those funds and he's looking forward to attending those meetings.

Bob Lundsten – He wanted to say that the City's services for police will be higher at a lower cost than DeKalb and that's a job well done.

Seeing no further public comments, Mayor Pro Tem closed the Public Comment portion of the Public Hearing.

Under further discussion, Mayor Pro Tem Shortal stated that he was a big pusher of take-home cars. The Police budget is 42% (to respond to one of the public comments questions) and the City will be very diligent in spending the Hotel/Motel funds.

City Manager Hutmacher stated that he will make sure the budget is balanced. He attempted to be very conservative on the revenue side to be pleasantly surprised if revenue is higher due to citations

or other things. He wants to assure the Council that radar devices are safety measures and not only there to generate revenues. Councilmember Wittenstein stated that the City is projecting less revenue than before to be conservative and has a still balanced budget. But, there are some unaccountable expenses that may lower reserve: seemingly not enough is allocated for pothole repair. Richard Meehan stated that it will all depend on the condition assessment and will be developed into a long-term plan. All problems cannot be fixed in one day or one year and it becomes a fiscal policy choice. Councilmember Wittenstein suggested that not enough money may have been allocated for parks, which are in disrepair. City Manager Hutmacher stated that status quo maintenance is included and other line items provide a chance for decisions as to how best to spend it. Mayor Pro Tem Shortal stated that he prefers more quality than quantity and that's what the budget anticipates. Councilmember Heneghan thinks more money should be budgeted in the coming year for street repair. Also, money for benches for Brooke Run is needed and for the park stream. Councilmember Taylor believes Brooke Run is woefully unsecured and a hazard and that needs to be considered as well. He also wanted to know the location of the City Court which, City Manager Hutmacher responded, will have a place by the time it is needed. Councilmember Shortal wanted to commend staff on creating a balanced budget. City Manager Hutmacher wanted to state that he recommends passing the budget tonight in order to begin spending with the thought that amendments will have to be made in the near future. He will review revenue and expenditure reports to monitor the budget on a weekly basis at first, then monthly. Councilmember Bonser wanted to see if all the miscellaneous funds can be consolidated into a discretionary fund, which the City Manager stated would be doable.

Seeing no further discussion, Mayor Pro Tem Shortal closed the Public Hearing.

**Budget Ordinance:** The First Read of Ordinance to Adopt and Approve the Fiscal Year 2009 City of Dunwoody Budget was held. (*First Read*)

**One-Read Budget Ordinance:** One-Read Ordinance 2008-12-60, to adopt the Fiscal Year 2009 City of Dunwoody Budget was read by Assistant to Acting City Clerk Felgin. Councilmember Wittenstein moved to approve the One-Read Ordinance 2008-12-60 as presented. Councilmember Heneghan seconded. Under discussion, City Manager Hutmacher presented certain amendments to the budget: non-departmental insurance increased to \$172,000; establish a street light fund of \$328,000; increase the police gas budget to \$125,000; increase the police equipment budget to \$135,205. He also suggested that any miscellaneous line items require approval of the City Manager. Councilmember Bonser moved to amend the budget with the changes suggested by the City Manager. Councilmember Wittenstein seconded. There was no discussion and the motion to amend carried 5-0. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion to approve the amended budget and the motion carried 5-0. (**Ordinance 2008-12-60**)

**Interim Future Land Use Map:** The First Read of Ordinance to Adopt the City of Dunwoody Interim Future Land Use Map was held. (*First Read*)

**One-Read Ordinance to adopt Fiscal Year:** One-Read Ordinance 2008-12-58 to adopt the City of Dunwoody Fiscal Year was read by Assistant to Acting City Clerk Felgin. Councilmember Wittenstein moved to approve Ordinance 2008-12-58 as presented. Councilmember Heneghan

seconded. Seeing no discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. **Ordinance 2008-12-58**

**Ordinance to Adopt Fiscal Year:** The First Read of Ordinance to Adopt the City of Dunwoody Fiscal Year was held. (*First Read*)

**Resolution to Appoint Judges to the City of Dunwoody Municipal Court** - Assistant to Acting City Clerk, Leonid Felgin, read Resolution 2008-12-32 for consideration. Councilmember Taylor moved to approve the Resolution as presented. Councilmember Bonser seconded. Under discussion, City Attorney Anderson stated that this is necessary in order to be able to have court starting in the first of the year. Councilmember Wittenstein wanted to know what the costs are for something outside a court session. City Manager Hutmacher said that would do it as part of the job. Councilmember Heneghan was hoping to get more information on these candidates prior to them being presented. He would like to know the process and how these candidates were chosen and what were the qualifications and some background on them. He read an e-mail from Mayor Wright stating that the recommendations came from the Courts committee and he accepted those recommendations as his own. Seeing no further discussion, Mayor Pro Tem called for a vote on the motion and the motion carried 5-0. (*Resolution 2008-12-32*)

**International Property Maintenance Code:** The First Read of Ordinance to Adopt the International Property Maintenance Code was held. (*First Read*)

**One-Read TAN Ordinance:** One-Read Ordinance 2008-12-59, authorizing the Tax Anticipation Note, was read by Assistant to Acting City Clerk Felgin. Councilmember Bonser moved to approve Ordinance 2008-12-59 as presented. Councilmember Heneghan seconded. Under discussion, Mayor Pro Tem Shortal wanted to know the definition of “taxes” per the TAN. City Manager Hutmacher stated that this provision is per state code and the City does not anticipate exceeding the 75% gross income from taxes provision. Also, the TAN was prepared by an expert TAN attorney for the City so everything should be in order and passes legal muster. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. (**Ordinance 2008-12-59**)

**TAN Ordinance:** The First Read of Ordinance authorizing the Tax Anticipation Note was held. (*First Read*)

**Resolution to partially terminate the Moratorium:** Resolution 2008-12-33, to partially terminate the Moratorium, was read by Assistant to Acting City Clerk Felgin. Councilmember Heneghan moved to approve Resolution 2008-12-33 as presented. Councilmember Wittenstein seconded. Under discussion, City Attorney Anderson stated that the Moratorium will only be lifted for business and alcohol license applications and issuance by this Resolution and is effective on December 31<sup>st</sup>. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. (**Resolution 2008-12-33**)

**Resolution to Adopt Schedule of Fees for Planning and Zoning** – Resolution 2008-12-34 was read by Assistant to Acting City Clerk Felgin. Councilmember Bonser moved to approve

Resolution 2008-12-34 as presented. Councilmember Heneghan seconded. Jennifer Peterson, Director of Community Development, stated that these fees come from an analysis of 15 jurisdictions and the City is not the highest and not the lowest. She explained the various line item fees, including the red-line additions from earlier in the day. Councilmember Shortal wanted to know if a limit can be put in for those situations where citizens are replacing water heaters or toilets. Councilmember Wittenstein suggested some kind of lower fees for small repairs. Jennifer Peterson said that all enforcement would be done that is required to make sure that the appropriate repairs are being done with an appropriate permit, even small repairs. Councilmember Shortal wanted to go back and take a look at the fees before next meeting to see if some burden can be removed from the citizens. He also wanted to have a dollar amount exempt from permit costs. Councilmember Taylor moved to defer the vote on the Resolution till next meeting. Councilmember Wittenstein seconded. Seeing no discussion, Mayor Pro Tem Shortal called for a vote on the motion to defer the Resolution and the motion carried 5-0. The Resolution was deferred.

**OTHER BUSINESS:** Councilmember Heneghan stated that he wanted to bring back the Resolution to Appoint Judges for the City of Dunwoody Municipal Court (2008-12-32) in order to amend it slightly and moved to revive the Resolution. Councilmember Bonser seconded. Seeing no further discussion, Mayor Pro Tem Shortal called for a vote on the motion and the motion carried 5-0. Resolution 2008-12-32 was revived. Councilmember Wittenstein moved to amend the Resolution to strike out the phrase that states the judges serve concurrent with the term of the Mayor. Councilmember Heneghan seconded. Seeing no discussion, Mayor Pro Tem Shortal called for the vote on the motion to amend the Resolution and the motion carried 5-0. Councilmember Bonser moved to approve the Resolution as amended. Councilmember Wittenstein seconded. Seeing no discussion, Mayor Pro Tem called for a vote on the amended Resolution and the motion carried 5-0. **(Resolution 2008-12-32, as amended)**

**PUBLIC COMMENT:** Robert Keesee – He stated that this is an opportunity for the City to build small a small town concept where a community can participate in building the community and get local citizens involved in helping to clean-up and build this City better in order to show that we're all in this together.

Councilmember Heneghan, on point of privilege, stated that he would like the City to look into having a volunteer coordinator for such projects.

Mary Keesee – Wondered if the City can look into Webb Bridge Park to have an example of how to do grading in the Brooke Run stream so the children would be safe and not drown. She also wanted to know whether DeKalb required permits for plumbers to change toilets.

Bob Lundsten – He wants to caution the Council to look to staff to find out the impacts of amendments before the Council can make decisions that may have legal consequences and ramifications. Full advantage needs to be taken of the staff and the experts and professionals before decisions are made. This is why he continues to call on the Council to add a public comment section before adoption of any ordinance in order to make sure all the voices have been heard.

Bob Dallas – States that now that there's a budget, there is a need to acknowledge that the killer of

law enforcement is car crashes and we need to protect the officers from such. He also presented Council with methods to involve the citizens in communications.

Steve Ludwig – Stated that, from looking at the Comcast Agreement, he didn't see that it addresses repairing property after they destroy it making repairs or connections to their lines. Several yards have been ripped up on his property and less than satisfactory work has been done on the repairs. It is impossible to get in touch with them. Maybe Public Works can have a liaison with those franchisees to make sure decent repairs are made.

There being no further business, Council Member Taylor made a motion to adjourn, seconded by Council Member Bonser. The motion carried 5-0 and the meeting was adjourned.

Approved by:

\_\_\_\_\_  
Denis Shortal, Mayor Pro Tem

Attest:

\_\_\_\_\_  
Joan Jones, Acting City Clerk