



**CITY OF DAHLONEGA
REGULAR COUNCIL MEETING
JULY 11, 2016, 4:00 P.M.
MINUTES OF MEETING**

The Dahlonega City Council met for their Regular Council Meeting July 11, 2016 at 4:00 p.m. in the Council Room at City Hall.

Council Members Michael Clemons, Roman Gaddis, Sam Norton, Mitchell Ridley and Mayor Pro Tempore Bruce Hoffman were present. Council Member Ron Larson and Mayor Gary McCullough were absent.

Staff Members in attendance were City Manager Bill Schmid, DDA Director, Finance Director Melody Marlowe, Planning Director Chris Head, Public Works Director Mark Buchanan and City Clerk Kimberly Smith. Also present was DDA Director Rebecca Shirley.

Call to Order and Welcome

Mayor Pro Tempore Bruce Hoffman called the meeting to order at 4:15 p.m.

Prayer and Pledge of Allegiance to the American Flag

City Manager Bill Schmid led the prayer. Council Member Michael Clemons led the Pledge of Allegiance to the American Flag.

Agenda Approval

Council Member Gaddis made a motion to amend the agenda by adding item 4. a. Approval of Registered Agent Change to David Russell Walker for Kingwood Dahlonega International Resort, LLC, successor to and assignee of Birch River Chestatee Company, LLC, Consumption on Premises Alcohol License, second by Council Member Norton. Mayor Pro Tempore Hoffman called for a vote of those in favor to signify by raising their right hand, like sign for those opposed. The motion carried with a unanimous vote.

Citizens:

City Clerk Kimberly Smith reported that fingerprints and background investigations were completed and in order and recommended approval.

Mayor Pro Tempore Hoffman called for a motion to Approval of Registered Agent Change to David Russell Walker for Kingwood Dahlonega International Resort, LLC, successor to and assignee of Birch River Chestatee Company, LLC, Consumption on Premises Alcohol License. Motion made by Council Member Gaddis, seconded by Council Member Norton.

Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried unanimously.

Public Hearing – Zoning Application - 8.995 Acres

City Attorney Parks asked if anyone was present to speak in favor of the zoning application for Community and Southern Bank/Creekstone Church property located at 3544 South Chestatee Street, Dahlonega, GA, Tax Id Map 081 Parcel 011, with proposed zoning of R-1 Single Family Residential, Proposed Use: Church, Current County Land Use: Neighborhood Village Center.

**CITY OF DAHLONEGA REGULAR COUNCIL MEETING
JULY 11, 2016, 4:00 P.M.
MINUTES OF MEETING
PAGE 2**

James Daniel addressed the Council and said that the intention is to have the property annexed into the City to be able to use City water and sewer utilities and offered to answer any questions. Mr. Daniel said the reason for the request goes with the annexation request that follows.

City Attorney Parks asked if there was anyone present to speak in favor, opposition or make comment of the zoning request. There were no comments.

City Manager Schmid read from a memo dated July 5, 2016 to Mayor and Council from Planning Director Chris Head, "Staff and Planning and Zoning Commission recommendations are to approve annexation and zoning to R-1 subject to conditions of: The frontage of the property is in an area of limited horizontal and vertical sight distance and the future size of the facility and its associated roadway impacts are currently unknown. For these reasons staff recommends approval of the annexation and zoning to require compliance with all Georgia Department of Transportation and City of Dahlonega site-specific requirements for adequate turning sight distance. This may include deceleration, acceleration lanes with tapers, center turn lane and/or signalization when warrants are met. The property shall make use of one common point of entry with the adjacent property to the south by means of common entrance and shared cross access easement ingress/egress rights. Depending on the adjacent use and development shared parking may be encouraged during site plan development review."

City Attorney Parks said the motion and vote on zoning would be deferred until annexation is voted on.

Public Hearing - Annexation - 8.995 Acres

City Attorney Parks asked if there was any one present wishing to comment in favor or against the annexation of 8.995 acres of property located at 3544 South Chestatee Street, Dahlonega, Georgia Tax Id Map 081 Parcel 11 with proposed zoning of R-1 Single Family Residential, Proposed Use: Church, Current County Land Use: Neighborhood Village Center. There were no comments.

City Attorney Parks asked City Manager Schmid to read the conditions for the annexation and zoning of this property.

City Manager Schmid read the following conditions recommended by staff and Planning from the memo dated July 5, 2016: "The frontage of the property is in an area of limited horizontal and vertical sight distance and the future size of the facility and its associated roadway impacts are currently unknown. For these reasons staff recommends approval of the annexation and zoning to require compliance with all Georgia Department of Transportation and City of Dahlonega site-specific requirements for adequate turning sight distance. This may include deceleration, acceleration lanes with tapers, center turn lane and/or signalization when warrants are met. The property shall make use of one common point of entry with the adjacent property to the south by means of common entrance and shared cross access easement ingress/egress rights. Depending on the adjacent use and development, shared parking may be encouraged during site plan development review."

Mayor Pro Tempore Hoffman called for a motion regarding the annexation. Motion to approve annexation with conditions as read by City Manager Schmid and recommended by staff and the Planning Commission by Council Member Ridley, seconded by Council Member Gaddis. Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried unanimously.

Mayor Pro Tempore Hoffman called for a motion regarding the zoning of the property just annexed. Council Member Ridley made a motion to approve the zoning to R-1 with the conditions read by the City Manager and recommended by staff and the Planning Commission. Motion seconded by Council Member Gaddis. Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried unanimously.

**CITY OF DAHLONEGA REGULAR COUNCIL MEETING
JULY 11, 2016, 4:00 P.M.
MINUTES OF MEETING
PAGE 3**

Public Hearing – Rezoning Request – Roberta Garrett Rezoning Application to rezone 16.66 acres

City Attorney Parks said that Attorney Joey Homans would make a presentation on behalf of the applicant for rezoning of Vickery and Warwick Streets, Dahlonega, GA Tax Id Map D07 Parcels 36, 38, 40, 41 and 44; being in Land Lot 928 and 929 District 12 Section of City of Dahlonega Lumpkin County from various zonings to PUD.

Attorney Joey Homans presented on behalf of applicant Roberta Green-Garrett and said he and John Gaston are available to answer questions and go over specific site plans. Mr. Homans said he adopts and incorporates by reference the letter of constitutional objections presented to Mayor and Council on May 2, 2016. Homans said the property is 16.66 acres, contains 60 units and the request is to rezone to PUD. Homans stated that it appears that all agree that the zoning district of PUD is proper. The conditions are what there has not been an agreement reached on. The conditions disputed are water and sewer tap fees imposed per ordinance amendment dated March 17, 2016 because the application was submitted prior to that date. Mr. Homans requested that the water and sewer tap fees be charged as per the ordinance dated in August 2015, effective October 1, 2015. Homans stated if the water and sewer tap fees are computed per the ordinance dated March 17, 2016 the tap fees will be \$645,300.00.

Mr. Homans said the condition for the applicant to pay costs for a pump station are disputed because the planning documents the city has for this area show density of 12 units per acre is anticipated. The reason for the planning documents is for the city to plan what infrastructure will be necessary. If the city disagrees and requires the applicant to pay the costs for a pump station, that the cost be treated as a development or impact fee and be given a credit against any tap fee she must pay.

Mr. Homans said, as to the condition of speed breakers being installed on Vickery Drive and Warwick Street, the applicant will install those as per conditions.

Mr. Homans said, as to the architectural conditions of brick on the buildings, the applicant is only willing to install brick on part of the building that is near Willow Trace and not the others.

Mr. Homans said, the condition of no back out parking would be allowed without the speed breakers being installed.

Mr. Homans asked the Council to approve the rezoning to PUD with the condition modifications stated this evening rather than the conditions suggested.

John Gaston stated that he prepared the site plan for the applicant who has an engineer, James Irvin, who is doing all of the detail work. Gaston said the site plan is for an infill of apartments adjacent to property already owned by the applicant. The applicant wants to construct three buildings off Vickery Drive with 12 units each then in the second phase construct two buildings in the area off Warwick Street. Gaston said each unit would have four bedrooms and there will be one parking space for each unit, which is in excess of city requirements. Gaston said the sidewalks would be tied in to existing sidewalks. Mr. Gaston said he would answer any questions.

City Attorney Parks said the time for questions would come later. City Attorney Parks asked if there was anyone present wishing to speak in favor of or in opposition to the application.

City Manager Schmid read the recommendation of staff and Planning Commission conditions:

1. the Letter of Intent be adjusted to state the project will comply with current regulations pertaining to Ordinance 75-1 amendment 44;(this means that the water and sewer tap fees will be paid on a per unit basis rather than on a master meter basis, though master metering is allowed for the building.)
2. The applicant will install speed breakers on Vickery Drive locations to be determined by City Engineer.
3. New building architectural standards will be similar to the existing buildings.

**CITY OF DAHLONEGA REGULAR COUNCIL MEETING
JULY 11, 2016, 4:00 P.M.
MINUTES OF MEETING
PAGE 4**

4. There would be one parking space per bedroom.
5. The applicant is responsible for water and sewer improvements to include pump station improvement; (that is the norm, it is typical for project related improvements to be borne at the project developer's expense).
6. At the initiation of phase two, speed breakers would have to be installed on Warwick Street at developer's expense.

Mayor Pro Tempore Hoffman called for a motion to approve the rezoning request. Motion made by Council Member Norton contingent upon the staff and Planning Commission recommendations read by City Manager Schmid with discussion to follow. The motion was seconded by Council Member Clemons. Further discussion ensued regarding what could or would happen if the developer did not build the required pump station. City Manager Schmid said the other properties owned by this applicant would suffer the detriment if a pump station were not constructed.

City Attorney Parks asked Attorney Homans if his applicant would consider amending her letter of intent by removing the paragraph pertaining to tap fees. More discussion ensued regarding the tap fee not typically being a part of a land use application. Mr. Homans contended that tap fees were a portion of the letter of intent because they were included as a condition of the rezoning. City Manager Schmid stated the original letter of intent included reference to tap fees, had it not been there, it would not have been included as a condition.

City Attorney Parks said he would like to ask Mr. Homans one final time if he would like to amend any portion of the letter of intent for the rezoning application. Mr. Homans replied that he did not feel it was necessary, but since it was made a requirement of the rezoning, he feels it needs to remain.

Planning Director Chris Head stated that a PUD requires that the use of the water be detailed in the request, but not tap fees.

Following more discussion regarding if the tap fee needs to be part of the letter of intent, City Attorney Parks asked again if the applicant wanted to remove the portion of the intent letter that mentioned tap fees. There was more discussion with no resolve.

Mayor Pro Tempore Hoffman asked if the motion as stated is what the intent is for a vote. City Manager Schmid and Council Member Norton replied that the motion stands as stated. Mayor Pro Tempore Hoffman asked for a vote of all in favor to indicate so by raising their hand, like sign for those opposed. The motion carried with a unanimous vote with all voting in favor.

Public Hearing - Delta Beta Chapter of PI KAPPA PHI - Rezoning of 8.5 acres

City Attorney Parks asked Attorney Steve Gilliam if he would like to come forward to speak on the request for rezoning of 8.5 acres on Auraria Road from B2 Highway Business to PUD, Planned Unit Development to Allow Mixed Use of Apartment and Lodging House and establish zoning standards for the project to include encroachment into a 150-foot buffer.

Attorney Steve Gilliam asked Joshua Saint to comment. Joshua Saint addressed the Council and said he presented two plans which show what would be allowed on the property as it is currently zoned, townhouses and what would be constructed if the rezoning to PUD, which would be town houses and a lodging house is approved. Mr. Sing said the encroachment into the buffer would allow parking and dumpsters to be placed behind the buildings so they would not be in view of the road.

Attorney Steve Gilliam addressed the Council regarding research regarding the 150-foot buffer requirement and a letter sent to the Council June 28, 2016 and letter sent to City Manager Schmid in December of 2015. Mr. Gilliam asked that those letters be adopted as part of the minutes. Mr. Gilliam stated that when the B-2 zoning was adopted in 2000 the 150-foot buffer was not included in the zoning adoption per the minutes of the meeting

**CITY OF DAHLONEGA REGULAR COUNCIL MEETING
JULY 11, 2016, 4:00 P.M.
MINUTES OF MEETING
PAGE 5**

of June 5, 2000. Attorney Gilliam said there was also no mention of the buffer in the resolution for the B-2 zoning nor the official zoning map. Attorney Gilliam stated that they could build what they wish to build in a PUD including establishment of a 150-foot buffer consisting of three 50-foot buffers. Mr. Gilliam said they feel this would be superior to what is allowed in the current zoning.

City Attorney Parks asked if there was anyone present wishing to speak in favor of the application. There were no comments.

City Attorney Parks asked if there was anyone present wishing to speak adversely to the application.

The following persons spoke in opposition to the rezoning request made by Delta Beta Chapter of PI KAPPA PHI - Rezoning of 8.5 acres from B-2 to PUD:

Matt Rogers, adjoining property owner, presented a declaration of covenant stating the property in question is never to be used for commercial, office or institutional construction and the definition of industrial construction provided to him by Planning Director Head that states lodging houses are institutional construction. Mr. Rogers also read the definition of PUD in relation to PUD adjacent to single family residential zoning that said if allowed, the units in the PUD should be of similar size and type of those in the adjacent residential zoning.

Attorney Lynn Young said she lives 1/10th of a mile from the property and the intersection of Torrington and Auraria is one of the most treacherous in Dahlonega. Attorney Young said the property on one side goes straight up and directly across the road is Cane Creek, so if land disturbance were to happen, part of the mountain could come down and possibly go into Cane Creek. Attorney Young presented some deeds recorded over the years in sequential order, that all showed the 150' buffer. Attorney Young expressed law enforcement concerns with a fraternity house being adjacent to a residential area.

Christina Packard, adjoining property owner, expressed her concerns with the increased traffic that would be a result of the construction, loss of water to property owners above, stability of the mountain and that the college has stated that there will eventually be a fraternity row on college property. Ms. Packard stated that allowance of encroachment into the buffer would prevent future expansion or widening of the road. Ms. Packard said her concerns are traffic, fire safety, mountain stability, noise and pollution.

Tom Becker, adjoining property owner, detailed knowledge of meeting minutes containing the approval of Alta Vista Subdivision that refer to the 150' foot buffer and every plat recorded since then shows the 150' buffer.

George Thompson, adjoining property owner, said that approval of the rezoning of this property would destroy what attracts people to the area. He is opposed to cutting of trees and destruction of mountains.

Mel Hawkins said it could take approximately one acre for the planned 200 parking spaces at the proposed development, which could cause pollutants to run off into Cane Creek.

Renee Becker, adjoining property owner, expressed concerns with the wells on the top of the mountain if reduction of the 150' buffer were permitted.

Caroline Johnson, adjoining property owner, expressed concerns with the buffer being reduced because when she purchased her property she was assured the buffer would remain 150'.

Attorney Steve Gilliam gave rebuttal and stated that currently 64 units can be constructed on the property, but with approval of the PUD and buffer reduction only 52 units are planned; all effects to the river are governed by E.P.D.; and all the issues being debated are development issues not zoning issues.

**CITY OF DAHLONEGA REGULAR COUNCIL MEETING
JULY 11, 2016, 4:00 P.M.
MINUTES OF MEETING
PAGE 6**

Attorney Steve Gilliam closed with the following statements: "The B-2 zoning adopted in 2000 negated the buffer recorded in deeds and plats. The responsibility of the Mayor and Council is to enforce the zoning, not review of deeds and covenants of deeds. Law Enforcement concerns can be figured out between the City and the County."

Mr. Becker stated that the residents are prepared to fight this legally.

Mayor Pro Tempore Hoffman called for a motion on the rezoning request. Motion made to deny by Council Member Clemons, seconded by Council Member Norton.

Council Member Gaddis said this will not be the last time the Council will have to deal with fraternities building houses because in B-2 zoning, fraternities can build houses and when one constructs others will follow.

Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried with Council Members Clemons, Norton and Ridley voting in favor and Council Member Gaddis voting in opposition.

Announcements – Public Comments

None

Minutes Approval:

Mayor Pro Tempore Hoffman called for a motion to approve the minutes of Council Meeting June 6, 2016, Special Called Meeting June 16, 2016 and Work Session June 16, 2016. Motion by Council Member Gaddis, seconded by Council Member Ridley. Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried unanimously.

Departmental Reports:

Mayor Pro Tempore Hoffman asked if there were any questions regarding the monthly departmental reports.

Council Member Norton asked if the budget document could be resubmitted to Mayor and Council as an amendable document. City Manager Schmid asked if a fillable PDF form would be sufficient. Council Member Norton replied that it would.

Consent Items:

Mayor Pro Tempore Hoffman asked for a motion to approve the consent items:

- Purchase of SCADA Computer System for Water Treatment Plant from Universal Controls for \$27,475.00
- Banking Services Contract Extension with United Community Bank
- Capital Asset Policy effective October 1, 2015

Council Member Norton made a motion to approve the consent items, seconded by Council Member Ridley. Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried unanimously.

Mayor Pro Tempore Hoffman called for a motion for approval of Indigent Defense Services Agreement with the Circuit Public Defender Office of the Enotah Judicial Circuit. Motion made by Council Member Norton, seconded by Council Member Clemons. Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried unanimously.

Resolutions:

Mayor Pro Tempore Hoffman called for a motion to approve Resolution 2016-9, a Resolution of the City of Dahlonega Regarding Minutes of Executive Sessions. Motion made by Council Member Clemons, seconded by

**CITY OF DAHLONEGA REGULAR COUNCIL MEETING
JULY 11, 2016, 4:00 P.M.
MINUTES OF MEETING
PAGE 7**

Council Member Ridley. Mayor Pro Tempore Hoffman called for a vote of all in favor to signify so by raising their hand, like sign for those opposed. The motion carried unanimously.

City Manager Comments

City Manager Schmid reported that the position of Main Street – DDA Program Assistant has been filled by Ms. Danielle Bell. City Manager Schmid said Ms. Bell has been working as an intern for the city and is doing a great job.

City Manager Schmid said the Mayor and Council would be seeing a fair amount of items on Work Session agendas in the next few months.

There was discussion regarding Council Members Gaddis, Ridley and Larson being out of town on the next Work Session dated July 21, 2016 and the possibility of a change in the date of that meeting to have a quorum present.

Mayor Comments

Mayor Pro Tempore Hoffman said if the drought conditions continue he would like Water Plant Superintendent John Jarrard to attend a Work Session.

City Attorney Comments

None

City Council Comments

Council Member Ridley said he would like to discuss having Christmas lights all put onto a master timer so staff would not have to continually check the lights. DDA Director Shirley explained that there are other reasons that necessitate staff checking the lights such as burned out bulbs and light strands falling and/or being pulled down. DDA Director Shirley said that part of the lights are on commercial grade timers which need less attention than those on residential timers. There was some discussion regarding use of warm white LED lights in place of the standard lights due to the durability and energy efficiency of LED lights.

Adjournment

Mayor Pro Tempore Hoffman called for a motion to adjourn the meeting. Motion made by Council Member Norton, seconded by Council Member Ridley. Mayor Pro Tempore Hoffman asked for those voting in favor indicate so by raising their hand, like sign for those opposed. The motion carried with a unanimous vote.

Meeting adjourned at 5:50 p.m.

APPROVED THIS _____ DAY OF _____, 2016.

_____ Bruce Hoffman, Mayor Pro Tempore

Attest:

_____ Kimberly A. Smith, City Clerk