



City of Smyrna

A. Max Bacon City Hall
Council Chambers
2800 King Street SE
Smyrna, GA. 30080

Meeting Minutes - Final City Council

Monday, October 3, 2022

7:00 PM

A. Max Bacon City Hall - Council Chambers

Roll Call

Present: 8 - Mayor Derek Norton, Councilmember Glenn Pickens, Councilmember Latonia P. Hines, Councilmember Travis Lindley, Councilmember Charles Welch, Councilmember Susan Wilkinson, Mayor Pro Tem / Councilmember Tim Gould and Councilmember Lewis Wheaton

Also Present: 1 - Scott Cochran

Staff: 8 - Joe Bennett, Dan Campbell, Frank Carruba, Caitlin Crowe, Jill Head, Russell Martin, Penny Mocerri and Heather Peacon-Corn

Call to Order

Mayor Derek Norton called to order the October 3, 2022 City Council Meeting held at A. Max Bacon City Hall in Council Chambers at 7:00 PM.

1. **Invocation and Pledge:**
2. **Agenda Changes:**
3. **Mayoral Report:**

Mayor Norton reminded everyone that on Saturday, October 8, 2022, the Smyrna 150th Birthday Celebration will take place in downtown with music, food, and many cultural experiences. It will end with Toad the Wet Sprocket and Train and a fireworks show. Also, the Hispanic Heritage Month Celebration will take place the following Saturday on October 15, 2022.

- A. [PRC2022-15](#) Proclamation in Recognition of Ms. Jenifer Mitacek, Cobb County School District's Teacher of the Year.

Mayor Pro Tem Tim Gould read the proclamation aloud:

*A PROCLAMATION
BY THE MAYOR OF THE CITY OF SMYRNA
In Recognition of Jenifer Mitacek
Cobb County School District Teacher of the Year*

Whereas: Ms. Jenifer Mitacek, a second-grade teacher at Smyrna's Argyle Elementary School was named the Cobb County School District's Teacher of the Year on August 23, 2022; and,

Whereas: Ms. Mitacek was chosen among the more than 7,000 teachers the district employs, and will now represent Cobb County, the state's second largest district, at the state-level Teacher of the Year competition; and,

Whereas: in August, Jenifer started her ninth year of teaching, and her fifth year at Argyle Elementary. During her time at Argyle, she has been a site liaison and coach for the Argyle "Girls on the Run" Team, started an after-school enrichment STEM club, and initiated a school wide effort to send letters to airmen at Lackland Air Force Base during the holiday season. She has also been involved in several district level committees such as the Priority Standards Committee, Mathematics Standards Revision Committee, and is a graduate of the Cobb Teacher Leader Academy; and,

Whereas: Jenifer was born and raised in Batavia, Illinois, where she attended elementary, middle and high school, and got her first teaching job in that same school district. She attended Northern Illinois University where she received her undergraduate degree in Elementary Education with a Spanish minor and ESOL endorsement. Jennifer graduated from Thomas University in May with her graduate degree in Curriculum and Instruction; and,

Whereas: Ms. Mitacek says, "I just feel an immense honor, and I feel this immense responsibility to not only represent Argyle very well, but to represent the whole county, to be a voice for all of the teachers and all the students in the county this year, and to just share how small but mighty Argyle is"; NOW,

Therefore: I, Derek Norton, by virtue of the authority vested in me as Mayor of the City of Smyrna in the State of Georgia, do hereby proclaim October 3, 2022 as a day of recognition for Jenifer Mitacek for her personal and professional accomplishments leading to being recognized as the Cobb County School District Teacher of the Year 2022-2023.

B. [PRC2022-19](#)

Proclamation in Recognition of the 40-year Anniversary of Cumberland Diamond Exchange.

Mayor Derek Norton read proclamation aloud:

*Cumberland Diamond Exchange
In Recognition of 40 Years*

Whereas: we are proud to recognize and honor Cumberland Diamond Exchange, a Smyrna business for more than four decades; and

Whereas: Cumberland Diamond Exchange was established in 1982 by brothers Wayne and Mark Jacobson, and is now owned and operated by Mark and Rhonda Jacobson; and

Whereas: Cumberland Diamond Exchange has occupied the corner of Spring Road and Cumberland Boulevard in Smyrna since it first opened; and

Whereas: Cumberland Diamond Exchange was recognized as the 2015 Cobb County Small Business of the Year, the 2016 Jeweler of the Year for the Southeastern United States, and in 2017, Rhonda Jacobson was named Smyrna Citizen of the Year; and

Whereas: Since 2000, the Cumberland Diamond Exchange has also been among the top 5% of independent, specialty jewelers in the U.S. based on revenue; and

Whereas: Cumberland Diamond Exchange strongly believes in community involvement. They are involved in more than 40 charitable, nonprofit organizations in Metro Atlanta including the Smyrna Public Safety Foundation, Wellstar Foundation, SafePath Children's Advocacy Center, and the Cobb Library Association, just to name a few; and

Whereas: the mission statement of Cumberland Diamond Exchange is Committed to go the extra mile, Dedicated to exceed your expectations and Experienced to buy wisely and sell professionally; NOW

Therefore: I, Derek Norton, by virtue of the authority vested in me as Mayor of the City of Smyrna in the State of Georgia, do hereby proclaim October 3, 2022 as a day of recognition for Cumberland Diamond Exchange and encourage all city residents, officials, and staff to congratulate them on their 40th Anniversary and their many accomplishments and contributions to the community.

C. [2022-477](#)

Recognize Blair Berenson for Eagle Scout Project in Smyrna Parks.

Mayor Norton presented information on Blair Berenson who was being recognized for his Eagle Scout project in Smyrna parks:

- *Junior at Campbell High School*
- *Future Eagle Scout from Troop 220 in Smyrna based out of Life Church*
- *He chose to fundraise, build, paint, install and stock TEN "Little Free Libraries" across TEN parks in Smyrna for his Eagle Scout project (he worked closely with Richard Garland on the project)*
- *Blair is in attendance along with his parents, scouts and adult leaders from Troop 220, and J. Barrett Carter, member of the Smyrna Parks & Recreation Commission (representing Ward 7)*

Councilmember Lindley recognized the other scouts and their leaders in attendance. He congratulated Blair Berenson for his project and commitment and stated that his experiences as an Eagle Scout will be carried with him throughout his life.

Councilmember Wheaton congratulated Blair Berenson and advised him to take the hard work, experience, memories, coordination, organization, and fun and put it toward his growth; then he will do exceedingly well in life.

4. Land Issues/Zonings/Annexations:

A. [2022-481](#)

Public Hearing - Appeal the denial by the License and Variance Board for Variance Request V22-055 - Allow encroachment into the 75-foot impervious surface area setback - Lot 696 - 1921 Sadler Drive - Eddie Karr by Wayne S. Melnick who resides at 1921 Sadler Drive SE, Smyrna, GA 30080 as filed with the City Clerk's office on September 1, 2022 at 4:12 PM via electronic email.

Ward 6 / Councilmember Gould

Joe Bennett, City Administrator, provided the following background:

The applicant is requesting a variance to allow encroachment into the City's 75-foot impervious surface area setback to allow for the construction of a new swimming pool at 1921 Sadler Drive. The City's stream buffers are controlled by Chapter 46, Article VI.

The property was originally platted in 2006, after the Stream Buffer Ordinance was enacted in 2005 and no mitigation plan has been proposed for the property. The hardship is self-created, as the lot of record has existed after the Stream Buffer Protection Ordinance was adopted. Without a mitigation plan to offset any potential effects of the buffer encroachment, staff cannot assume that there would be no negative impacts to adjacent properties if approved.

Community Development recommended denial of the 75-foot impervious surface area setback encroachment. The variance requests were denied by a vote of 3-0 at the August 24, 2022 meeting of the License and Variance Board. The homeowner, Wayne S. Melnick of 1921 Sadler Drive, has appealed that decision.

Caitlin Crowe, Planner I, presented a detailed background:

The subject parcel is a 0.23-acre lot located on the north side of Sadler Drive (see Figure 1). A stream runs through the northern border of the property and continues through the adjacent western and eastern properties as well as a 15-foot drainage easement just north of the deck on the rear of the home. The subject parcel and all adjoining parcels to the east, south, and west are zoned RDA and are occupied by single-family detached residences within the Stonecrest Manor subdivision. The adjacent parcel to the north is in Unincorporated Cobb County and is currently vacant.

The applicant is proposing to build a 691 square foot in-ground swimming pool and accompanying decking in the rear yard. Due to the existing stream, the rear yard is encumbered by the State's 25-foot undisturbed stream buffer, the City's 50-foot undisturbed stream buffer, and the City's 75-foot impervious setback. Thus, the applicant will require relief from the City's Stream Buffer Protection Ordinance in order to construct the pool and decking in the rear yard. However, due to the physical constraints of the site, including the size of the lot and existing home, there is no feasible area to install proper mitigation on the property to offset the disturbance to the buffer. After a site visit on August 15, 2022, the Assistant City Engineer made the determination that the 25-foot and 50-foot buffers are currently properly vegetated and facilitate the protection of water quality and aquatic habitat, so a buffer remediation plan would also not be applicable. After the site visit and review of the plans, the Assistant City Engineer cannot support the variance due to a lack of a feasible mitigation plan.

Per Section 46-160(b.1) within the Stream Buffer Protection Ordinance, variances may be granted "where a parcel was platted prior to the effective date of this article, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the community development department finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, the license and variance board may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel." Since the property was originally platted in 2006, after the Stream Buffer Ordinance was enacted in 2005 and no mitigation plan has been proposed for the property, staff cannot support a variance request at the subject property. Community Development believes the hardship is self-created, as the lot of record has existed after the Stream Buffer Protection Ordinance was adopted. Without a mitigation plan to offset any potential effects of the buffer encroachment, staff cannot assume that there would be no negative impacts to adjacent properties if approved and cannot recommend approval.

The applicant is requesting relief from the City's 75-foot impervious surface area setback to install a pool and decking in the rear yard. According to Section 46-160 of the Stream Buffer Protection Ordinance, variances must be reviewed under the following standards: (a) the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; (b) the locations of all streams on the property, including along property boundaries; (c) the location and extent of the proposed buffer or setback intrusion; (d) whether alternative designs are possible which require less intrusion or no intrusion; (e) the long-term and construction water quality impacts of the proposed variance; (f) whether as a result of an exchange of buffer area the net buffer area is not reduced; and (g) whether issuance of the variance is at least as protective of natural resources and the environment. Engineering and Community Development have reviewed the request against the variance review standards and found it to not be in compliance with the standards due to the lack of a mitigation plan to offset any effects. After a review of the standards above, Community Development believes that the encroachment may adversely affect surrounding residents; therefore, staff recommends denial of the requested variance.

Councilmember Welch asked if there is a concrete deck around the pool. Ms. Crowe stated there will be a 1 - 2 foot decking around the pool. It would eliminate 282 sq. ft. of impervious surface. Mr. Welch does not see that as being a detriment as long as the remaining area is properly restored.

Mayor Pro Tem Gould asked if all the houses on the north side bump up against the stream, and if those other lots would have similar challenges. Ms. Crowe stated that is correct. Mr. Gould expressed that this issue brings about the question of setting a precedent. If this homeowner is allowed to do this, then others could do the same, and the encroachment on the stream buffer could create a problem.

Councilmember Wheaton asked what the purpose and goal of these buffers are. Frank Carruba, Assistant City Engineer, stated that the intent of impervious setbacks are to minimize the impact of stormwater runoff. By doing so, it reduces erosion sedimentation, improves water quality and habitat corridors.

Wayne Melnick (1921 Sadler Drive), applicant came forward. He stated that when they moved into the neighborhood, they submitted to the HOA the approval of their neighbors. The HOA approved the application. The variance is more challenging because it requires the approval of all adjacent homes, and in this case, it is a total of six (6) approvals. Mr. Melnick stated it is important for Council to consider the approvals of the six (6) neighbors and HOA. Of the total 715 sq. ft., 433 sq. ft. is outside of the variance. 282 sq. ft. is the total effect. The pool to the creek is 77 feet. There is a 30 foot decline from the back line of property to the creek which is an entirely vegetated area. The vegetation slows the water down to minimize the concern of sedimentation. This property was platted in 2006, annexed afterward, the properties were built in 2008, and the neighborhood was finished in 2014.

Mayor Norton asked if the decking is permeable. A representative from Bellareed Pools stated that they suggested permeable decking, but it was denied as an unacceptable material. Mr. Carruba stated permeable concrete is an acceptable form of mitigation; however, installing pervious pavers directly next to the house can cause a negative impact on the foundation or basement. The pervious pavers would also be installed under the existing deck, and the existing deck is impervious. Mitigation plans were never submitted. Councilmember Welch asked why the pool is considered impervious. Mr. Carruba stated that when the water levels rise above the maximum

levels in the pool, the pool will pump the water out onto the grounds.

Russell Martin, Community Development Director, stated that they requested a mitigation plan multiple times from the applicant. No mitigation plan was ever submitted. If there is no mitigation plan submitted, there is nothing for staff to approve. The ordinance itself states that there has to be a mitigation plan in place.

Mr. Bennett confirmed with staff that no actual plans were submitted, only verbal ideas presented, and they would need to submit actual plans. Mr. Martin concurred and further stated that at a minimum it would need to include a site plan showing location of mitigation and design specs of BMP.

It was suggested that this item be tabled so further discussion can take place.

Mayor Pro Tem/Councilmember Tim Gould made a motion to table to the November 7, 2022 City Council Meeting item 2022-481, a public hearing and appeal of the denial by the License and Variance Board for Variance Request V22-055 to allow encroachment into the 75-foot impervious surface area setback on lot 696 located at 1921 Sadler Drive by applicant Eddie Karr by Wayne S. Melnick who resides at 1921 Sadler Drive SE, Smyrna, GA 30080 as filed with the City Clerk's office on September 1, 2022 at 4:12 PM via electronic email; seconded by Councilmember Latonia P. Hines.

The motion to table to the November 7, 2022 City Council Meeting carried with the following vote:

Aye: 7 - Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould and Councilmember Wheaton

B. [2022-476](#)

Authorization for an apartment complex name change request for a change from Midwood Belmont Apartments to 1000 Belmont (1000 Belmont Park Drive SE, Smyrna, Ga.) by the applicant Emma Venegas, who is the Regional Manager with 1000 Belmont Apartments, LLC and authorize the Mayor to sign and execute any related documents.

Ward 3 / Councilmember Lindley

Councilmember Travis Lindley approved item 2022-476, an authorization for an apartment complex name change request for a change from Midwood Belmont Apartments to 1000 Belmont (1000 Belmont Park Drive SE, Smyrna, GA.) by the applicant Emma Venegas, who is the Regional Manager with 1000 Belmont Apartments, LLC, and authorize the Mayor to sign and execute any related documents; seconded by Councilmember Glenn Pickens.

The motion to approve carried with the following vote:

Aye: 7 - Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould and Councilmember Wheaton

5. Privilege Licenses:

6. Formal Business:

A. [ORD2022-19](#) Second approval of charter amendment adopting the redistricting plan

subsequent to the 2020 decennial census and authorize the mayor to sign and execute all related documents.

Ward / Citywide

Joe Bennett, City Administrator, provided the following background:

As a result of the 2020 Census, the boundaries of the City of Smyrna, Georgia's seven councilperson wards require redistricting in accordance with applicable state and federal law. The Mayor and City Council ("Governing Body") of the City have engaged redistricting legal experts and consultants to assist the City in its redistricting efforts and, the Governing Body now desires to amend the city charter to adopt this redistricting plan.

The recommendation is to authorize the amendment of Article III, Division 1, Section 6 (c) of its Charter of the Smyrna City Charter to adopt this redistricting plan made subsequent to the 2020 decennial census and authorize the Mayor to sign and execute all related documents.

Councilmember Travis Lindley made a motion to approve item ORD2022-19, the second of two approvals of the charter amendment adopting the redistricting plan subsequent to the 2020 decennial census 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: 7 - Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould and Councilmember Wheaton

B. [2022-483](#)

Authorization to amend the FY 2023 adopted budget to increase contract labor expense in the Engineering departmental budget by \$105,000.00 for emergency/ unbudgeted contract labor and increase the revenue budget in the insurance reimbursement account in the General Fund by \$105,000.00.

Ward / Citywide

Joe Bennett, City Administrator, presented the following background:

Public Works / Engineering have had an inordinate amount of contract labor for emergency response this year. We are requesting a budget adjustment of \$105,000.00 for Contract Labor in the Engineering Budget to cover these unplanned expenses while we pursue recompense through the representative insurance companies.

Councilmember Travis Lindley made a motion to approve item 2022-483, an authorization to amend the FY 2023 adopted budget to increase contract labor expense in the Engineering departmental budget by \$105,000.00 for emergency/ unbudgeted contract labor and increase the revenue budget in the insurance reimbursement account in the General Fund by \$105,000.00; seconded by Councilmember Charles Welch.

The motion to approve carried with the following vote:

Aye: 7 - Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould and Councilmember Wheaton

C. [2022-488](#)

Approval of the purchase of a Seba 70-40 Concrete Crusher from Grinder Crusher Screen (1772 Corn Road, Smyrna, GA, 30080) in the amount of \$179,900.00 to be paid for out of the American Rescue Plan Act (ARPA) fund and authorize the Mayor to sign and execute all related documents.

Ward / Citywide

Joe Bennett, City Administrator, presented the following background:

Public Works has requested to purchase the Seba 70-40 Crusher from Grinder Crusher Screen. The crusher would provide an alternative for the haul off of concrete and asphalt from city projects. This machine would allow the city to crush curb, gutter, sidewalk and asphalt and repurpose for future water/sewer, storm drain and roadway projects.

The Seba 70-40 Crusher is sold exclusively in the United States by Grinder Crusher Screen. This machine is recommended as it comes with a camera allowing a one-man operation. The company is also located less than 2 ½ miles from Public Works so repairs and maintenance may be performed quickly.

Councilmember Glenn Pickens made a motion to approve item 2022-488, the purchase of a Seba 70-40 Concrete Crusher from Grinder Crusher Screen (1772 Corn Road, Smyrna, GA, 30080) in the amount of \$179,900.00 to be paid for out of the American Rescue Plan Act (ARPA) fund and authorize the Mayor to sign and execute all related documents; seconded by Councilmember Travis Lindley.

The motion to approve carried with the following vote:

Aye: 7 - Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould and Councilmember Wheaton

D. [2022-440](#)

Approval to purchase 7 (seven), 2023 Ford Police Interceptor Explorer vehicles and 4 (four), 2022 Ford Explorer XLT administrative vehicles through Hardy Family Ford (1255 Charles Hardy Parkway Dallas, Georgia 30157) for the Police Department as part of the FY23 Vehicle Replacement Fund at a total cost of \$533,017.97 dollars and authorize the Mayor to sign and execute any related documents.

Ward / Citywide

Joe Bennett, City Administrator, presented the following background:

A total of 11 (eleven) police fleet vehicles have been or will be taken out of service in FY23. The replacement vehicles were included in the FY23 Vehicle Replacement Fund. The Police Department is authorized \$532,000.00 dollars in the FY23 Vehicle Replacement Fund for the replacement of 7 (seven) Uniform Patrol vehicles and 4 (four) administrative vehicles. The vehicles are needed to replace fleet vehicles taken out of service as a result of damage sustained in accidents, age and/or mileage, as well as guidance from the Fleet Manager. All vehicles will be purchased from Hardy Family Ford (1255 Charles Hardy Parkway Dallas, Georgia 30157) and all necessary emergency equipment from Insight Public Sector, Grafix Shoppe, Dell EMC, and ProLogic ITS.

In order to retain budgetary limits, the recommendation is to purchase all eleven

vehicles, outfit four administrative vehicles and three of the pursuit vehicles. Additional vehicles will be outfitted as funds are available.

Councilmember Charles Welch made a motion to approve item 2022-440, the purchase of seven (7) 2023 Ford Police Interceptor Explorer vehicles and four (4) 2022 Ford Explorer XLT administrative vehicles through Hardy Family Ford (1255 Charles Hardy Parkway Dallas, Georgia 30157) for the Police Department as part of the FY23 Vehicle Replacement Fund at a total cost of \$533,017.97 dollars and authorize the Mayor to sign and execute any related documents; seconded by Councilmember Glenn Pickens.

The motion to approve carried with the following vote:

Aye: 7 - Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould and Councilmember Wheaton

7. Commercial Building Permits:

8. Consent Agenda:

A motion was made by Councilmember Travis Lindley, seconded by Councilmember Glenn Pickens, to approve the Consent Agenda. The motion carried with the following vote:

Aye: 7 - Councilmember Pickens, Councilmember Hines, Councilmember Lindley, Councilmember Welch, Councilmember Wilkinson, Mayor Pro Tem / Councilmember Gould and Councilmember Wheaton

- A. [MIN2022-67](#) Approval of the September 15, 2022 Committee of the Whole Meeting Minutes.
Ward / Citywide
These Minutes were Approved on the Consent Agenda.
- B. [MIN2022-68](#) Approval of the September 19, 2022 Pre-Council Meeting Minutes.
Ward / Citywide
These Minutes were Approved on the Consent Agenda.
- C. [MIN2022-69](#) Approval of the September 19, 2022 Mayor and Council Meeting Minutes.
Ward / Citywide
These Minutes were Approved on the Consent Agenda.
- D. [2022-475](#) Approval to use Council Chambers for a joint Town Hall Meeting (Wards 1, 2 and 3), Tuesday, October 18, 2022, 7:00pm at A. Max Bacon City Hall, 2800 King Street SE, Smyrna Ga. 30080.
Ward 1 / Councilmember Pickens
Ward 2 / Councilmember Hines
Ward 3 / Councilmember Lindley

This Authorization was Approved on the Consent Agenda.

- E. [2022-482](#) Approval to use Council Chambers for Heritage at Vinings HOA Meeting, Wednesday, January 18, 2023 from 7:00pm - 8:30pm.

Ward 6 / Councilmember Tim Gould

This Authorization was Approved on the Consent Agenda.

- F. [2022-484](#) Authorize Atkins Park Tavern Restaurant & Bar to operate a beer trailer/station at the Hispanic Heritage Celebration at the edge of Smyrna Market Village immediately facing City Hall off the street on October 15, 2022 between 3:00PM and prior to streets being cleared and opened for vehicular traffic following the event, and authorize issuance of required letter proof of authorization by the office of the City Clerk for Atkins Park Tavern to obtain required State license.

Ward 3 / Councilmember Lindley

This Authorization was Approved on the Consent Agenda.

9. Ward / Committee Reports:

Councilmember Glenn Pickens reminded all that there will be an October 18, 2022 joint town hall for wards 1, 2, and 3.

Councilmember Travis Lindley stated he hopes all can come out for the 150th Birthday Celebration. And he thanked those Scouts that stayed for the duration of the council meeting.

Councilmember Charles Welch announced that Bulk Trash Amnesty Day is on October 22, 2022 from 8:00 AM - 1:00 PM at Smyrna Public Works.

10. Show Cause Hearings:

11. Citizen Input:

Barrett Carter thanked the Mayor and Council for their support of the Eagle Scouts and Blair Berenson.

12. Adjournment:

Mayor Derek Norton adjourned the City Council meeting at 8:11 PM.