



# City of Smyrna

2800 King Street  
Smyrna, Georgia 30080

## Meeting Minutes - Final City Council

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Monday, September 15, 2014

7:30 PM

Council Chambers

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### Rollcall

**Present:** 7 - Mayor Max Bacon, Mayor pro tem/Councilmember Melleny Pritchett, Councilmember Andrea Blustein, Councilmember Teri Anulewicz, Councilmember Susan Wilkinson, Councilmember Wade Lnenicka and Councilmember Ron Fennel

**Absent:** 1 - Councilmember Charles Welch

**Also Present:** 10 - Toni Jo Howard, Mike Brown, Ken Suddreth, Russell Martin, Scott Stokes, Scott Cochran, Jennifer Bennett, Steve Ciaccio, Roy Acree and Ann Kirk

### Call to Order

The meeting was called to order by Mayor A. Max Bacon.

#### 1. Invocation and Pledge:

The invocation was given by Britt Johnson, Student Ministries Pastor of Cumberland Community Church, located at 3110 Sports Ave. Smyrna GA. Pastor Johnson also led all in the Pledge of Allegiance

#### 2. Agenda Changes:

Item 4 B is to be tabled.

#### 3. Mayoral Report:

Mayor A. Max Bacon stated Susan Thayer was present and came forward to the podium. Ms. Thayer thanked everyone for their support, but also reminds everyone to vote in November. She stated how pleased she was to receive 70% of the vote in the runoff election and hopes she can keep the high percentage. Furthermore, Ms. Thayer stated she has the educational experience and the background to bring the right attention the schools need and she would love to be the representative.

Mr. Bob Ott, Cobb County Commissioner, was also present and came forward. Mr. Ott announced there will be a meeting from 3-7pm at the Windy Hill Senior Center addressing the Windy Hill road project. The meeting is an opportunity for the public to come out to see what is being proposed. Also, Mr. Ott talks about his Friday update, residents can go to his webpage to sign up for these updates and his television show is on once a month (1st Monday & 1st Thursday).

#### 4. Land Issues/Zonings/Annexations:

##### A. Public Hearing - Zoning Request Z14-022 - Rezoning from R-15 to

RAD-Conditional for the development of three single-family homes -  
0.633 Acre Tract - Land Lot 488 - 2764 Hamby Street - Charter  
Custom Homes, LLC

Sponsors: Anulewicz

Mayor A. Max Bacon announced, both, City Administrator and Assistant City Administrator, are away on a conference and Councilmember Welch is absent as well. Ms. Toni Jo Howards gives the background on the Zoning Request. Charter Custom Homes, LLC is proposing the rezoning of the subject property from R-15 to RAD-Conditional for the development of three new detached single-family residences. The density for the development will be 4.75 units per acre. No land use change from Medium Density Residential will be required for this rezoning. Staff recommends approval.

Mayor Bacon calls for a Public Hearing, no one came forward. Mr. Rusty Martin, City Planner, came to the podium to further explain the zoning request. Mr. Martin stated this item went before the Planning and Zoning Commission on August 11, 2014 and was recommended for approval by a vote of 6-0. There is one single family structure on site but the applicant is proposing to demolish that structure and build 3 single family homes. There will be no land use changes associated with this request. The future development map shows medium density residential to the south, moderate density residential to the north and west and mixed use to the east. Mr. Martin shows the proposed site plan and the development shall maintain the following setbacks: front setback of 20 feet, side setback of 5 feet with a minimum building separation of 10 feet, and a rear set back of 30 feet. The applicant is requesting a reduction in the minimum lot size from 15,000 to 9,000 square feet, lot width from 100 to 50 feet, reduce the front setback from 30 to 20 feet, and a side set back from 10 to 5 feet. The proposed tree plan is to save 5 specimen trees along the back; in addition there will be four other small trees preserved. There is also a large tree at the front of the site that will be saved; this tree will be impacted by the driveway.

Mr. Martin continues the discussion by reviewing the special conditions if the request. The following conditions are listed as follows: (9) the development shall maintain the following setbacks (as stated above); (10) driveway shall have a minimum length of 22 feet (from building face to back of sidewalk); (11) the developer shall provide a 5 feet sidewalk with a 2 feet grass buffer along Hamby Street for the length of the development; (12) the developer shall be required to bore across Hamby Street for water services; (13) the developer will be required to install a sanitary sewer main extension from Power Springs Street to serve the development, elevations are the responsibility of the developer; (14) the developer shall be allowed to count any tree density over and above the city's minimum required density towards specimen tree recompense provided specimen trees #7, #8, #9 and #13 are preserved, as shown on the tree plan submitted and dated 7/11/2014. Should any of these trees not be preserved, the developer shall be required to meet the specimen tree recompense requirements; (15) the developer shall at least one 4" caliper street tree along Hamby Street for each lot. If the 42" hardwood on lot #3 is able to be preserved, lot #3 shall be exempted from this requirement; (16) Approval of the subject property for the Residential Attached Detached (RAD) zoning district shall be conditioned upon the development of the property in substantial compliance with the submitted site plan dated 7/11/2014 created by Craig Wrigley; (17) the applicant shall be bound to the elevations submitted and dated 7/11/2014. Approval of any change to the elevations must be obtained from the Director of Community Development.

Council Member Anulewicz reiterated the condition of the trees in relation to the tree

ordinance and appreciated the thoroughness of the arborist study.

Mayor Bacon called the applicant, Tod Wrigley, to the podium and he was sworn in by City Attorney Scott Cochran. The applicant stated Mr. Martin did a great job presenting the information but added a few additional items. Mr. Wrigley stated they have worked with the City's Public Works Department, Engineer, and Planners for this project in regards to bringing the sewer to the project and discussion of the trees. He stated he is in constant dialogue with the City's Engineer in regards to the storm water management in regards to a detention pond. Mr. Wrigley stated it is not required for the site for several reasons such as the size does not necessitate it and the topography of the project is flat and runs in different directions. Furthermore, Mr. Wrigley stated being with the company being made of architect and builders, the company would like the flexibility of potentially modifying the plan and elevations to the program of a future homeowner.

Councilmember Anulewicz asked what was meant by modifying the elevations; Mr. Wrigley stated the elevation is true to the neighborhood and to the benefit and the vernacular of the neighborhood. He further stated he appreciated the dialogue and the openness of this project, while Councilmember Anulewicz echoed his appreciation and positive feedback from the neighborhood and City.

A motion was made by Councilmember Teri Anuelwicz to approve 2014-256 this was a public hearing for Zoning Request Z14-022 - Rezoning from R-15 to RAD-Conditional for the development of three single-family homes on a 0.633 Acre Tract in Land Lot 488 the address is 2764 Hamby Street and the applicant is Charter Custom Homes, LLC, seconded by Councilmember Ron Fennel. The motion carried by the following vote:

**Aye:** 6 - Mayor pro tem/Councilmember Pritchett, Councilmember Blustein, Councilmember Anulewicz, Councilmember Wilkinson, Councilmember Lnenicka and Councilmember Fennel

**Absent:** 2 - Mayor Bacon and Councilmember Welch

**Aye:** 6 - Mayor pro tem/Councilmember Pritchett, Councilmember Blustein, Councilmember Anulewicz, Councilmember Wilkinson, Councilmember Lnenicka and Councilmember Fennel

**Absent:** 2 - Mayor Bacon and Councilmember Welch

## 5. Privilege Licenses:

There were no privilege licenses

## 6. Formal business:

### A. Approval of the agreement with Country Park Homeowner's Association in the amount of \$49,130.01

Sponsors: Anulewicz

\*Clerk's Note - Councilmember Andrea Blustein who is a resident of Country Park and is also an officer with the Homeowners Association stepped away to recuse herself from the vote.

Finance Director Ms. Toni Jo Howard gave the background of the item. This is an

agreement with Country Park Homeowner's Association for a refund of overage charges and is being brought to Council because of the dollar amount.

Councilmember Anulewicz asked if City Attorney Scott Cochran had any additional background information of the item. Mr. Cochran stated this item is to resolve the issue of an over charge.

A motion was made by Councilmember Teri Anuelwicz to approve 2014-301 the approval of the agreement with Country Park Homeowner's Association in the amount of \$49,130.01, seconded by Mayor Pro Tem/Councilmember Melleny Pritchett. The motion carried by the following vote:

**Aye:** 5 - Mayor pro tem/Councilmember Pritchett, Councilmember Anulewicz, Councilmember Wilkinson, Councilmember Lnenicka and Councilmember Fennel

**Absent:** 3 - Mayor Bacon, Councilmember Blustein and Councilmember Welch

## 7. Commercial Building Permits:

There were no commercial building permits

## 8. Consent Agenda:

Finance Director Ms. Toni Jo Howard read aloud the Consent Agenda.

A motion was made by Councilmember Ron Fennel to approve the Consent Agenda, seconded by Mayor Pro Tem/Councilmember Melleny Pritchett. Motion carried by the following vote:

**Aye:** 5 - Mayor pro tem/Councilmember Pritchett, Councilmember Blustein, Councilmember Anulewicz, Councilmember Wilkinson and Councilmember Fennel

**Nay:** 1 - Councilmember Lnenicka

**Absent:** 2 - Mayor Bacon and Councilmember Welch

### A. Approval of the Mayor and Council Meeting Minutes for September 2, 2014

Sponsors: City Council

### B. Mayor and Council award RFP 14-016 Spring Road Bridge Repair to the lowest bidder E & D Contracting Services for \$788,562.00 and authorize the Mayor to execute any related documents.

Sponsors: Welch

### C. Approval of modification to Personnel Policy EMP 7-0 Overtime and Compensatory Time and authorize Mayor to sign related document

Sponsors: Lnenicka

## 9. Committee Reports:

Councilmember Ron Fennel called Deputy Chief Roy Acree to the podium. Deputy

Chief Acree announced the retirement celebration of Lt. Howard Bates who retired after 31 years of service with the Smyrna Fire Department. There are 6 new employees working at the Fire Department as well as one of the two new engines are in service and doing well and the other engine will be in service by the end of the week. The City is two weeks away from ReadySmyrna's Community Drill. The Smyrna Fire Department is asking for all faith-based organizations to participate on Sunday September 29 and on October 1st, all Smyrna schools, businesses, daycares, etc participate in the Community Wide Tornado Drill. For more information please visit, [readysmyrna.com](http://readysmyrna.com). Deputy Chief Acree stated the City of Smyrna Emergency Management Agency received the John D. Solomon Whole Community Preparedness Reward, in which they shared with the City of New York. Councilmember Fennel congratulated the entire Smyrna Fire Department and Emergency Management Team on their hard work and dedication on bringing such an honor to the City.

Council Member Fennel called Deputy Chief Mike Brown, Smyrna Police Department, to the podium for the Smyrna Police Department report. Deputy Chief Brown stated the third session of the Smyrna's Citizen Police Academy began last Monday night. The new academy is very excited and the police department is excited to have them. Car break-ins are increasing across the Metro Atlanta area, Deputy Chief Brown reminds everyone to secure their vehicles to prevent and deter break-ins. Deputy Chief Mike Brown wanted to thank the men and women of the Smyrna Police Department, Cobb County Police and Sheriff Department, and Paulding County Police Department for their work done over the past 24 hours and the positive in the situation arose when a 5-month old infant was found. Councilmember Fennel thanked Deputy Chief Brown for their continuous effort to remedy the speed, drug, and alcohol problem on the streets of Smyrna.

Councilmember Wade Lnenicka thanks the members of the Jessie Coleman Council of the PTA, they invited Councilmember Lnenicka to speak at their meeting. He acknowledged Keep Smyrna Beautiful's free paper shredding event and the grand opening event for McDonald's on South Cobb. Smyrna United Methodist Church is having a blood drive on Tuesday, Sept 16th from 2-7pm. Councilmember Lnenicka also expressed empathy to one of Smyrna's most distinguished citizens whom passed. Raymond Reid whom served in World War II, served his community on several boards, served as Cobb County attorney and in the Georgia House of Representatives and will be greatly missed.

Councilmember Susan Wilkinson called Parks and Recreation Director, Steve Ciaccio, to the podium; she also thanks the Parks and Recreation staff for all of their hardwork in the parks, especially during Smyrna Food Truck Tuesday's. Mr. Ciaccio states the staff is making preparations for new playground in the City, including Cobb Park and a park in Councilmember Blustein's Ward.

Councilmember Anulewicz called on Ms. Howard for a report from the Finance Department. Ms. Howard announced the department is currently undergoing the FY' 2014 annual audit and the results will be given to Council once it is done as well as property tax billing has been mailed and are due November 17, 2014.

Keep Smyrna Beautiful's Director Ann Kirk stated there are two more Saturday's remaining for the Fresh Market, 8-12pm at the First Baptist Church. She also wanted to thank Iron Mountain for their shredding services and time donated to the City twice a year. There was 192 cars with over 10,000 pounds of paper. Keep Cobb Beautiful will also have a shredding event on November 15, 2014 for those who missed the Smyrna event. The Rivers Alive event will be October 4th, contact Ann Kirk if you would like to volunteer, and Jonquils will be available October 1st at the Recycling Center, \$12.50 for a bag of 50.

Councilmember Andrea Blustein encouraged all citizens to visit the new McDonald's and also stated Zaxby's should be done soon. Belmont is underway and she is hoping Jonquil will provide with the City with plans soon.

Councilmember/Mayor Pro Tem Melleny Pritchett did not have a report.

## 10. Show Cause Hearings:

A. Appeal of the denial of application for an alcohol servers permit for Universe Winston.

Sponsors: Blustein

Mayor Bacon called the applicant Universe Winston to the podium and asked City Attorney Scott Cochran for the background. Mr. Cochran stated Ms. Winston has applied for a permit to sell alcohol by the drink at a local Smyrna restaurant and she has an issue that has made her ineligible. Under the discretion of our ordinance the Mayor and Council is allowed to grant a waiver to allow her a license.

Councilmember Blustein asked Ms. Winston about her pending action and whether it has been resolved or not. Ms. Winston stated it had not been resolved and her court date is September 25, 2014 at 1:30pm. She also stated her lawyer plans to get the charges dropped or she may choose diversion for 6 months but it may take 2 months to get approval. Mr. Cochran swears Universe Winston in. Ms. Blustein asked Mr. Cochran should they postpone this decision until after her court date. Mr. Cochran suggested Ms. Winston tell the Council her thoughts on whether or not the council should continue the hearing once her court date is over. Ms. Winston stated she really needs the permit for her job and is missing days of work to come to the hearings that have been scheduled. She stated she understands the circumstance and the policy in place but every time she comes back for a hearing she is always denied. Councilmember Blustein stated she was inclined to give the permit to Ms. Winston but if they do approve it can there be a stipulation in place if the court date does not go well the permit may be suspended. Mr. Cochran stated Ms. Blustein could move to grant the license with the condition Ms. Winston gives the Council a notice of the outcome of the court date. Also, Ms. Winston's license would be contingent of her not being convicted. Ms. Blustein asked Ms. Winston would she agree to the above conditions, Ms. Winston replied she would. Ms. Winston asked would she have to write a letter to Council or come in person to notify Council. Councilmember Lnenicka asked if her case is adjudicated to a first offense or pre-trial diversion is it considered a conviction, Mr. Cochran stated neither were a conviction. Councilmember Lnenicka asked if the special condition should be specific and Mr. Cochran stated a cleaner way to state the motion would be for the license to be conditional, being conditioned of her being convicted of anything other than the felony being charged.

Councilmember Fennel expressed to Ms. Winston how it is a right to serve alcohol and the Council is very careful of who they serve alcohol to. Councilmember Lnenicka stated he spoke with Ms. Universe earlier this week and stated the Council is depending on Ms. Winston to know the difference of what is right and what is not right and if there is any doubt in her mind that she can not fulfill the responsibility it is better to walk away now. Councilmember Blustein also stated they all want her to do well.

A motion was made by Councilmember Andrea Blustein to approve an alcohol servers permit for Universe Winston with the condition that if Ms. Winston is convicted of a felony during the appearance before the Court in Marietta, it will need

to be reviewed and the permit possibly suspended. Ms Winston is to notify the City Clerk of the outcome of the proceedings and based on the verdict and she is convicted, the permit will be revoked immediately, seconded by Mayor Pro Tem/Councilmember Melleny Pritchett. The Motion carried by the following vote:

**Aye:** 6 - Mayor pro tem/Councilmember Pritchett, Councilmember Blustein, Councilmember Anulewicz, Councilmember Wilkinson, Councilmember Lnenicka and Councilmember Fennel

**Absent:** 2 - Mayor Bacon and Councilmember Welch

**B.** Appeal of the denial of application for an alcohol servers permit for Nabil Muzemil.

**Sponsors:** Blustein

Nabil Muzemil was unable to appear before Mayor and Council for the appeal for a alcohol servers permit. This appeal has been postponed to October 20, 2014.

**11. Citizen Input:**

Mayor A. Max Bacon called Alex Backry of 3459 Shawnee Trail, Smyrna, to come forward for Citizen Input. Mr. Backry commented on an article which appeared in the Marietta Daily Journal involving Hickory Lakes. Mr. Backry stated he has driven along the Windy Hill corridor and stated all the business are very neat, and starting there are no empty buildings but the article stated the property was bought for redevelopment of the property. Mr. Backry stated he did not see any areas where redevelopment is needed and does not believe the property should be transformative. He also states the City is a business and the taxpayers are the clients, and decisions based upon long-term should be specifically defined. Mr. Backry also spoke on Hickory Lakes and the amount of houses on one acre, stating someone could spend the same amount and get more land and a bigger square footage in another area in Smyrna.

Mayor A. Max Bacon called Rebecca Luza, 4056 Norton Place, Heritage Mill subdivision, Smyrna to come forward for Citizen Input. Ms. Luza states Smyrna has a school issue and will always have a school issue, but states there is another issue. Ms Luza stated she thought Smyrna was trying to retain their citizens but she is at the point now where her house is too big and she needs to downsize but there are no communities that cater to this problem. Ms. Luza stated she thought Smyrna was the "Best Place to Retire", but the problem is there is nowhere to place the retirees or seniors. She also expressed her concerns of proposed David Weekly Homes site and how she does not know if the proposed restaurants will survive. She has had two neighbors who have moved outside of the City in order to find senior-like housing and Ms. Luza stated she does not want to move, she plans to retire in Smyrna.

Councilmember Anulewicz responded and stated the restaurants in Market Village are doing quite well, Ms. Luza stated she was referring to the vacant lots. Ms. Anulewicz stated what will be built at Belmont sounds like what she is looking for, but Ms. Luza stated she does not want to be that close to Windy Hill and that she disagrees with the earlier gentleman who spoke about South Cobb Drive. Mayor A. Max Bacon also expressed his understanding towards her input.

**12. Adjournment:**

Mayor A. Max Bacon adjourned the meeting at 8:40 PM