



# City of Smyrna

2800 King Street  
Smyrna, Georgia 30080

## Meeting Minutes - Final City Council

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Monday, September 19, 2016

7:00 PM

Council Chambers

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### Roll Call

**Present:** 8 - Mayor Max Bacon, Councilmember Derek Norton, Councilmember Andrea Blustein, Councilmember Teri Anulewicz, Councilmember Charles Welch, Councilmember Susan Wilkinson, Councilmember Doug Stoner and Councilmember Ron Fennel

**Also Present:** 8 - Jeffrey Tucker, Mike L Jones, Terri Graham, Eric Randall, Ken Suddreth, Dat Luu, Russell Martin and Maxwell Ruppensburg

### Call to Order

Mayor Max Bacon called the meeting of the Mayor and Council to order at 7:00 PM

#### 1. Invocation and Pledge:

Pastor Joel Smit of Smyrna Presbyterian Church located at 3130 Atlanta Road gave the invocation and led all in the Pledge of Allegiance.

#### 2. Agenda Changes:

*Change item 8F moved to Formal Business 6C*

*Candidates running for election?*

*Senator Hunter Hill spoke about his term with the City as its representative and asked for votes.*

*Spoke about the Fireworks concerns expressed to him.*

*50 days to election. Early voting starts in early October.*

Mayor Max Bacon indicated that there would be one agenda change by moving 8 F from the Consent agenda to 6 C under Formal Business.

#### 3. Mayoral Report:

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

- A. Public Hearing** - Zoning Request Z15-007 - Rezoning from R-20 to RAD-Conditional for the development of fourteen single-family homes - 5.61Acres - Land Lot 338 - 3744 Plumcrest Road - Sean Tintle

**Sponsors:** Welch

*Mayor Bacon asked Assistant City Attorney Jeffrey Tucker to review the timeline regarding this item as well as the background.*

Mr. Tucker stated the following:

Sean Tintle is requesting a rezoning from R-20 to RAD-Conditional for the construction of fourteen single-family homes at a density of 2.6 units per acre. The subject property was originally proposed for rezoning from R-20 to RAD-Conditional for the development of 15 single-family residences at a density of 2.67 units per acre. The original request was recommended for approval by the Planning and Zoning Board by a vote of 5-2 at the July 13, 2015 meeting. The Mayor and City Council voted to deny the rezoning by a vote of 4-3 at the September 8, 2015 meeting. Since the final decision of denial, the property owner has issued a constitutional challenge to the decision. The city and the property owner have been working through the mediation process to address the constitutional challenge. The property owner has developed a new fourteen lot plan and the judge has requested that the city rehear the rezoning. The applicant has resubmitted the new zoning plan to be heard by the Mayor and City Council.

Mayor Bacon announced the public hearing and several residents came forward to be sworn in.

Councilmember Doug Stoner arrived at 7:21PM.

Councilmember Welch asked Community Development Director Ken Suddreth to give any additional background.

Sean Tintle is requesting a rezoning from R-20 to RAD-Conditional for the construction of fourteen single-family homes at a density of 2.6 units per acre. Mr. Suddreth noted some additional changes that have occurred in the last year including a USPS mail kiosk.

The site plan was shown as well as elevations. And pictures of the adjacent properties were shown.

Out of mediation, after staff review, staff recommends approval with the following conditions:

Standard Conditions

(Requirement #8 and 17 from Section 1201 of the Zoning Code is not applicable)

1. The composition of the homes in a residential subdivision shall include a mixture of elements including; but not limited to: brick, stone, shake, hardy plank and stucco. No elevation shall be comprised of 100% hardy plank siding. The residences whose lots abut external roadways shall not be permitted to utilize hardy plank for any elevation facing these roads.
2. The developer shall provide a vegetative buffer with a minimum width of 20 feet parallel to any right-of-way external to the development (North Cooper Lake Road).
3. There shall be protective covenants with a mandatory homeowners association on all lots. These protective covenants shall be supplied to the City prior to the issuance of a building permit.
4. The developer shall provide at least 200 square feet of common space per lot. This common space shall be developed with improvements for the residential subdivision such as: gazebos, fountains, recreational/playground equipment or walking trails. The common space shall be controlled and maintained by the Homeowners Association.
5. The detention/retention pond shall be placed and screened appropriately to be unobtrusive to homes inside and outside the development. The storm water detention plan shall be designed to create at least a 10% reduction in a 2-year to 100-year storm event. The City Engineer shall approve all plans.
6. All utilities within the development shall be underground.
7. The developer shall be responsible for any traffic improvements (including additional right-of-way dedications) deemed necessary by either the City or the County during construction plan review. Sidewalks shall be provided by the developer inside the subdivision and outside the subdivision adjacent to any public right-of-way consistent with City's requirements for the extent of the development. A grass buffer with a minimum width of 2' shall be provided between the back of curb

and sidewalk. The grass buffer may be waived if it is deemed unnecessary by the City Engineer.

8. A strip of brick pavers or stamped concrete shall be installed on the street at the subdivision entrance for a minimum distance of 20 feet.

9. The development of any streets (including private) shall conform to the City's standards for public right-of-ways.

10. No debris may be buried on any lot or common area.

11. The developer will install decorative streetlights within the development, subject to approval by the City Engineer. Utilization of low intensity, environmental type lighting, the illumination of which shall be confined within the perimeter of the subject property through the use of "full-cutoff lighting".

12. The developer will comply with the City's current tree ordinance (unless noted elsewhere). All required tree protection measures shall be adhered to by the developer during construction.

13. All landscape plans must be prepared, stamped, and signed by a Georgia Registered Landscape Architect for any common areas or entrances.

14. All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.

15. All single-family and/or duplex residential lots shall provide the following at the time of certificate of occupancy: either four 3" caliper trees or three 4" caliper trees, unless otherwise approved by the City's Arborist. The following species of trees may be used: Nuttall Oak, Swamp Chestnut Oak, Allee Elm, and Village Green Zelkova. Other species may be used if approved by the City.

Special Conditions:

16. The development shall maintain the following minimum setbacks:

Front - 30'

Interior Side - 5'

Exterior Side - 25' (Lot 1 & 14)

Rear - 30'

17. The development shall be developed with a minimum lot size of 8,350 square feet.

18. The proposed homes shall have a minimum floor area of 2,100 sq. ft.

19. The fourteen new homes shall be accessed from the new proposed public road.

20. The developer shall provide a 5' sidewalk and 2' grass buffer inside and outside of the subdivision.

21. The driveway shall have minimum length of twenty-two (22') feet from building face to back edge of sidewalk. Each unit shall have a two-car garage with decorative garage doors.

22. The developer shall be responsible for any water or sewer improvements deemed necessary for the provision of services to the community.

23. The developer shall be responsible for any stormwater improvements deemed necessary by the City Engineer.

24. No stormwater management facility or portion thereof shall be located on any portion of the proposed lots. The stormwater management facilities shall be solely located on the HOA's property.

25. The developer shall provide a 10' landscape buffer along the perimeter of the property in accordance with the City's Tree Ordinance and Section 503 of the Zoning Ordinance.

26. All trees within the limits of disturbance and not located within a tree protection area must be removed during the land clearing and grading phase of the development.

27. 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 site plan submitted 8/26/2016 created by Ridge Planning & Engineering.

28. The applicant shall be bound to the elevations submitted and dated 8/26/2016.

*Approval of any change to the elevations must be obtained from the Director of Community Development.*

*Several Citizens came forward and spoke about the density, the traffic concerns, the buffer concerns, fire concerns, etc.*

*Mr. Howard Betts remarked that the residents were told a year ago and that revisions would be reviewed. This development is in the middle of an R20 neighborhood and the reduction of one home from 15 to 14 was a waste of time. If Council is going to pass this there are several requests he wants addressed and agreed to and he read those aloud.*

*Mr. Alan Dunn stated that if he had a choice, he prefers it does not go forward and had preferred that the City had taken this matter to court. He showed pictures of his property and showed the chain link fence and explained his need for a privacy fence. He also asked to shift the pavilion away from his home.*

*Ms. Kay Clapper remarked that she felt the Council has already made a decision and asked what happened to representative government? She has issue with cutting down 100 year old trees and the development being rezoned when it is surrounded by R20. Bennett Woods was an established 60 year old community with lots that have an abundance of trees. The development is mostly seniors on a fixed income. She wants Councilmember's to recuse themselves who have any preconceived opinions.*

*Mr. Scott Crooks spoke at the previous meeting last year and has spoken to Councilmember Welch. He feels that if they are going to build homes that sell for \$600,000, then it is economically feasible to stay at 10 units instead of 14. It seemed that the Planning and Zoning board had already made the decision and a retired judge that is not partial to voters. He said the residents should have input.*

*Ms. Laura Lam said the property would have two homes looking into her backyard over 20 feet high as opposed to R20 which are 12 -15 feet high. This property was purchased as an R20 property. No other reason to change it to RAD other than for money. The Council should hear their constituents. She said the math does not fit and it is a higher density rate than what was quoted. She also addressed public safety. She said she spoke to a public safety employee who is not in agreement of this item for fears of fire and the close proximity of the homes. She feels the community was not considered in the mediation process. She wants a no vote.*

*Ms. Brenda Peahl remarked that she is not against the development but has concerns about Bagwell as that is her driveway. She wants to know who will be keeping the road cut and keeping the road surfaced. She also wants a specific area of the property deeded to her as long as the retention / detention can be accessed. Mr. Jimmie Haligan responded and stated he was representing the developer. He has no problem working with Ms. Peahl to either deed it to her or keep it cut. Councilmember Fennel asked if she was in agreement to granting access to the easement and she said yes.*

*Ms. Maryellen Nelson spoke last time about the retention ponds and their dangers with mosquitoes and children. She wants a privacy fence with a locked gate and regular mosquito control.*

*Mr. Harry Roland has heard a lot of good comments of why not to develop this area. It's an island with R20 around it and he is concerned that Plumcrest will be the main entrance for quite some time. He said he got the feeling at the Town Hall that the mediation is the guidelines for what the developer will do.*

*Mr. Bill Cohen has serious concerns about his 100 year old red oak. There will be stormwater that will tear up the tree. An arborist made recommendations prior to mediation and he said he would make the tree safe. He is asking for protection of the tree from construction damage.*

*Ms. Alegria Goodman wants to know why the rights of one property owner are more important than the collective. She also stated that Councilmember Derrick Norton was a personal friend of Sean Tintle and she wants assurance of an impartial vote. She wants to know if any council accepted donations from the Judge who did mediation.*

*Councilmember Welch asked if any Councilmembers had additional questions at this time and there were none.*

*Mr. Garvis Sams, representing Sean Tintle, came forward to give the owners background. He noted the review of background by Mr. Tucker was sufficient and he moved on to remark about the conditions and the Tintles being in agreement to those as read aloud. Beachhaven Drive has surplus properties on both sides of the road and will deed those lots to the homeowners if they are wanting of it. If voted favorably this evening then further legal action will cease.*

*Councilmember Welch asked Mr. Tintle about the buffer on the north side of the property and the planting of evergreens along that property line.*

*Mr. Sams replied to the buffer at Mr. Butts property. He also read aloud the conditions by Mr. Butts read aloud and replied to each item.*

*Councilmember Blustein stated that had this development been in town it would have been fine but in the current area it needed to be considered to be reduced to 12 homes to honor the neighborhood. Mr. Sams responded the owner had considered less density however the current plan was keeping with the future land development. Councilmember Welch had an additional question for Ken Suddreth regarding the 100 year old tree mentioned. There were stipulations in the original request and were those still bound to the new developer and the answer is yes. Senior Planner Rusty Martin answered regarding the tree and explained the timeline for the tree being protected. The stipulations were agreed to in private and said he does not know if the pipe has been shifted to the other side of the street.*

*Mr. Sams said he will agree to meet with the homeowner and protect the tree in conjunction with the arborist.*

*Ms. Brenda Peal came back and asked about the trees in her back yard whose roots go into the developers area.*

*Ken Suddreth replied that there is a boundary tree provision to handle this type of situation.*

*Councilmember Welch inquired as to Pineview Drive and said it had not been addressed on the north side with fencing or tree buffer.*

*Mr. Suddreth stated that between the tree ordinance and the zoning ordinance any trees classified as boundary trees are protected.*

*Councilmember Wilkinson addressed the question about any Councilmembers receiving campaign contributions and asked Council if anyone accepted contributions. There was no response from other members of Council.*

*Councilmember Welch said that the first time it came before council he voted against it for two reasons: he felt some property values would be reduced and he felt that we did the best that we could to get those issues and many others resolved. He was certain we did not get everything the citizens asked for but we did get a lot and what we could.*

*A motion was made by Councilmember Charles (Corkey) Welch to approve 2015-168 for zoning request Z15-007 - Rezoning from R-20 to RAD-Conditional for the development of fourteen single-family homes - 5.61 Acres - Land Lot 338 - 3744*

Plumcrest Road the applicant/owner is Sean Tintle with the following special stipulations:

- 1) Add special stipulations requiring fencing be installed along North and West Boundaries of Alan Dunn's property located at 3726 N. Cooper Lake Road.
- 2) Require Evergreen buffer along West boundary of subject property. Buffer to include evergreen trees at a minimum of 10 feet on center, Evergreen trees shall be of 4" caliper.
- 3) Following the preliminary clearing, the City Arborist will inspect the 10 foot enhanced buffer and provide additional tree planting per our existing tree ordinance and removal of any dead trees.
- 4) Retention or detention pond shall be fenced with privacy fencing and landscape screening placed around the entire pond with the exception of a 12 ft entrance to be used for maintenance of the pond.
- 5) Additional property along each side of Beacham Drive to be offered to adjacent properties at their request, (they may not take it), but existing owner offer the property up with whatever is left after the 50 ft right of way requirement that he offered to those property owners.
- 6) Developer to work with City Arborist to protect trees located on right of way adjacent to Combs property.

The previous stipulations will be in addition to the 28 special stipulations recommended by Community development, seconded by Councilmember Ron Fennel. The motion carried by the following vote:

**Aye:** 5 - Councilmember Norton, Councilmember Anulewicz, Councilmember Welch, Councilmember Stoner and Councilmember Fennel

**Nay:** 2 - Councilmember Blustein and Councilmember Wilkinson

## **5. Privilege Licenses:**

There were no Privilege Licenses.

## **6. Formal Business:**

- A.** Approval of Re-appointment of Ward 5 Representative Danny Figueroa to the Smyrna Tree Board. This is a four-year term to expire August 2020.

**Sponsors:** Wilkinson

A motion was made by Councilmember Susan Wilkinson to approve item 2016-378 the re-appointment of Ward 5 Representative Danny Figueroa to the Smyrna Tree Board. This is a four-year term to expire August 2020, seconded by Councilmember Doug Stoner. The motion carried by the following vote:

**Aye:** 7 - Councilmember Norton, Councilmember Blustein, Councilmember Anulewicz, Councilmember Welch, Councilmember Wilkinson, Councilmember Stoner and Councilmember Fennel

- B.** Approval of appointment of Ward 6 representative Mr. Doug Terry to the Smyrna Housing Authority through the remaining term to expire in May 2020.

**Sponsors:** Stoner

A motion was made by Councilmember Doug Stoner to approve item 2016-383 for the appointment of Ward 6 representative Mr. Doug Terry to the Smyrna Housing Authority through the remaining term to expire in May 2020.

**Aye:** 7 - Councilmember Norton, Councilmember Blustein, Councilmember Anulewicz, Councilmember Welch, Councilmember Wilkinson, Councilmember Stoner and Councilmember Fennel

**C.**

Approval of Guaranteed Maximum Price (GMP) for the Historic Reed House Event Center renovation in the amount of \$1,500,000.00. The GMP will include \$1,000,000.00 to Peachtree Construction Services for maintenance and code compliance construction, \$300,000.00 for CDBG improvements and site work, and \$200,000.00 in project contingency and to authorize the Mayor to sign and execute all related documents.

**Sponsors:** Welch

*City Administrator Mike Jones gave the background for this item and stated: This item is for the Guaranteed Maximum Price (GMP) for the Historic Reed House Event Center renovation in the amount of \$1,500,000.00. The GMP will include \$1,000,000.00 to Peachtree Construction Services for maintenance and code compliance construction, \$300,000.00 for CDBG improvements and site work, and \$200,000.00 in project contingency and to authorize the Mayor to sign and execute all related documents.*

*Following the issuance of the Construction Manager at Risk (CMAR) contract, the processes began to evaluate in detail the current state of the residence. Peachtree Construction brought in their subcontractor's to each evaluate necessary repairs and/or improvements to either restore to original condition or bring to current codes and specification their respectable fields of expertise. Concurrently, Lyman Davidson Dooley put their approved conceptual plans into production to make the residential structure meet commercial codes. Peachtree Construction submitted an initial breakdown of costs based on their investigations and the plans drafted by LDD, Inc. in early July. These costs were broken down further into phases. Throughout July and early August, meetings between Croy, LDD, and Peachtree took place to value engineer any savings in cost that could occur as well as develop phases that made logical sense throughout construction processes. For example, all demolition and site preparation could occur simultaneously. Lift installation could take place with re-wiring and interior construction. ADA improvements as well as other CDBG related tasks should run parallel whenever possible.*

*Throughout the phasing and budgeting process, non-compulsory items were removed from the current scope to be included in future improvements. These items include re-insulating the attic and crawl space, the replacement of the dilapidated shed, and miscellaneous plumbing, roofing, and painting that is outside the necessary scope. With the completion of the architectural plans, a final cost of improvements was determined. It was decided to remove the contractor contingency and carry an owner contingency of \$200,000 rather than float two redundant contingencies. Through the removal of the contractor contingency line item, the non-compulsory items, and the site improvements the team was able to get Peachtree's scope to \$1,000,000. Of the \$1,000,000 total, approximately \$289,000 makes up operational costs, exterior rehabilitation makes up about \$283,000, and the balance of \$428,000 will be used for interior improvements. The CDBG improvements and site improvements are estimated at \$300,000.*

*Parks & Recreation staff recommends Mayor and Council approves the Guaranteed*

*Maximum Price of \$1,500,000.00 for the Historic Reed House Event Center renovation and authorize the Mayor to sign and execute all related documents. Mayor Pro Tem / Councilmember Anulewicz remarked that she recalls when purchasing this home and she spoke to many people on TV and in the community. There has been tremendous support of this purchase. She also noted that had this property been purchased privately it would be rezoned to a development for town homes or homes.*

*Councilmember Welch read a list of possible uses for the home and read a few for the public: Small concerts, lectures, art shows, field trips, rehearsal dinners, showers, etc.*

A motion was made by Charles (Corkey) Welch to approve item 2016-380 for the Guaranteed Maximum Price (GMP) for the Historic Reed House Event Center renovation in the amount of \$1,500,000.00. The GMP will include \$1,000,000.00 to Peachtree Construction Services for maintenance and code compliance construction, \$300,000.00 for CDBG improvements and site work, and \$200,000.00 in project contingency and to authorize the Mayor to sign and execute all related documents, seconded by Councilmember Doug Stoner. The motion carried by the following vote:

**Aye:** 7 - Councilmember Norton, Councilmember Blustein, Councilmember Anulewicz, Councilmember Welch, Councilmember Wilkinson, Councilmember Stoner and Councilmember Fennel

## 7. Commercial Building Permits:

There were no Commercial Building Permits

## 8. Consent Agenda:

*The consent agenda was read aloud for Council approval.*

A motion was made by Councilmember Ron Fennel to approve the consent agenda as read aloud, seconded by Councilmember Derek Norton. The motion carried by the following vote:

**Aye:** 7 - Councilmember Norton, Councilmember Blustein, Councilmember Anulewicz, Councilmember Welch, Councilmember Wilkinson, Councilmember Stoner and Councilmember Fennel

**A.** Approval of the September 6, 2016 Mayor and Council Meeting minutes

**B.** Authorize Atkins Park Tavern to operate a beer/wine station, beyond the boundaries of the premises covered by the license, at Star 94 Woofstock event in the downtown Saturday, Oct. 1, 2016

**Sponsors:** Anulewicz

**C.** Award RFQ 17-007 Paving Projects to the lowest bidder Butch Thompson Enterprises Inc. for \$582,095.00 based on their unit price bid and authorize the Mayor to execute any related documents.

**Sponsors:** Welch



- D. Approval to use Council Chambers on Thursday, September 22, 2016 from 6:00pm - 8:00pm for a meeting for the residents of Lexington Trace community.

Sponsors: Blustein

- E. Approval of Architectural services contract for Fire Station 2 project, to Lyman Davidson Dooley Inc., in the amount of \$106,500.00 and allow Mayor to sign related documents.

Sponsors: Norton

## 9. Committee Reports:

*Ward 1 - Derrick Norton - Thanked several HOA's he has recently met with. He remarked about the upcoming joint meeting with Andrea Blustein and Teri Anulewicz, 6:00pm at the Community Center. He also mentioned the development of town homes on Bell Drive and encouraged citizens to contact him with questions. He has made himself very accessible and he gave his phone numbers as well as email contact information. The Public Safety Event held on September 10th raised over \$80,000 for public safety and he thanked all who helped make it such a success.*

*Ward 2 - Andrea Blustein - Special prayer for relief from the heat.*

*Ward 3 - Teri Anulewicz - Remarked about the recent Taste of Smyrna event and applauded staff for the cleanup. She is delighted the City is moving forward with the Reed House.*

*Ward 4 - Corkey Welch - No report*

*Ward 5 - Susan Wilkinson asked if anyone had more information on next weekend's Woofstock event. Mr. Jones replied he would make sure the info was on the City's website.*

*Ward 6 - Doug Stoner - No Report*

*Ward 7 - Ron Fennel had no finance report or Community relations but he did thank the City for the successful SBA meeting.*

*Mike Jones had no report*

*Jeffrey Tucker had no report*

*Terri Graham had no report*

## 10. Show Cause Hearings:

There was no Show Cause Hearings

## 11. Citizen Input:

*Alex Backry - 3459 Shawnee Trail: spoke about no parking signs on his street and the lack of consistent police department response to the problem.*

*Howard Martin - 3435 Lee Street: Spoke about a speeding issue as well as a stop sign issue in front of his home and his concern for children that wait in that area for the bus.*

*Gary Nelson - 872 Chrysler Avenue in Ward 5. He lives in a blighted area with poor immigrants and many minority's. He remarked that there is no park and no swing set for 100 homes. They want clean safe neighborhoods to raise their children in.*

*Cynthia Lawrence: Wanted to end on a really good note. She felt the Council had handled the Plumcrest property as well as they possibly could. She does not envy their positions. She asked that Council give consideration to the blighted areas.*

## **12. Adjournment:**

Mayor Max Bacon adjourned the meeting of the Mayor and Council at 9:14 PM