



City of Smyrna

2800 King Street
Smyrna, Georgia 30080

Meeting Minutes - Final City Council

Monday, November 20, 2017

7:00 PM

Council Chambers

Roll Call

Present: 6 - Mayor Max Bacon, Councilmember Derek Norton, Councilmember Andrea Blustein, Councilmember Charles Welch, Councilmember Susan Wilkinson and Councilmember Doug Stoner

Absent: 1 - Councilmember Ron Fennel

Also Present: 11 - Tammi Saddler Jones, Scott Cochran, Scott Andrews, Terri Graham, Ken Suddreth, Russell Martin, Maxwell Ruppensburg, Ashley Youmans, Dat Luu, Kristin Robinson and Jennifer Bennett

Call to Order

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

1. Invocation and Pledge:

Pastor Lee Delbridge of Smyrna Christian Church located at 910 Concord Avenue gave the invocation and led all in the Pledge of Allegiance.

2. Agenda Changes:

Mayor Bacon noted there was one agenda change which was an item under Land Issues, Zonings and Annexations number four (4) (A) for Zoning Request Z17-013. This re-zoning would be tabled at the request of the applicant to the December 18, 2017 Mayor and Council meeting.

We still have a empty Ward seat for ward 3

3. Mayoral Report:

A. Proclamation in Recognition of Small Business Saturday, November 25, 2017

Sponsors: Stoner

A Proclamation in recognition of Small Business Saturday, November 25, 2017 was read aloud by Councilmember Doug Stoner. The proclamation was accepted by David Monroe on behalf of the Small Business association. Mr. Monroe is the President-Elect for the Smyrna Small Business Association and he has a small realty business in Smyrna.

B. Recognize Smyrna Soccer Club's U16 Team Benfica for finishing the 2017 Fall Season with an Undefeated Record of 10-0

Mayor Bacon announced the Smyrna Soccer Club, Team Benifica. Coaches, Steve McKinley and Mahmoud Abouelnasr came forward to speak on behalf of the soccer team. Team Benifica finished the 2017 Fall Season with an undefeated record of 10-0 and as the # 3 team in the state out of 78 teams. The team roster is made up of Smyrna boys ages 14 & 15. Coach Steve McKinley introduced the 12 players in attendance.

Players: Aiden Lambotte, Andrew Ayoub, Angel Facundo, Diego Montoya, Dominique Morris, Ethan Tai, Hudson Weller, Jacob Blackburn, Jaden Ramsey, Jake Petersen, Joel McKinney, Kaleb Carmack, Kevin Capula, Kristoffer Fields, Louie Akporji, Neal Manocha, Nicholas McKinley, Sachin Trevino

Mayor Bacon wished the team his congratulations. He asked the families of the team to stand up and be recognized along with the team.

Mayor Bacon asked if any Candidates wanted to come to the podium to speak. There was no one.

4. Land Issues/Zonings/Annexations:

- A. **Public Hearing** - Zoning Request Z17-013 - Rezoning from R-15 to RAD-Conditional for the development of four single-family residences at a density of 3.39 units per acre - 1.18 Acres - Land Lot 593 - 1505 & 1515 Spring Street - Neighborhood Commercial, LLC

Sponsors: Blackburn

A motion was made by Councilmember Doug Stoner to table zoning Request Z17-013 at the applicants request to December 18, 2017 - Rezoning from R-15 to RAD-Conditional for the development of four single-family residences at a density of 3.39 units per acre - 1.18 Acres - Land Lot 593 - 1505 & 1515 Spring Street - Neighborhood Commercial, LLC.; seconded by Councilmember Derek Norton. This motion was approved to be tabled by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

- B. **Public Hearing** - Zoning Request Z17-016 - Rezoning from R-15 to RM-15-Conditional for the development of 59 townhome units - 4.71 Acres - Land Lot 809 - 2708, 2720, 2732, 2742, 2754, 2766, 2776, 2788, 2800 and 2812 Bell Drive - The Woodberry Group, LLC

Sponsors: Norton

Mayor Max Bacon requested City Administrator, Tammi Saddler Jones to provide the background for the rezoning.

Ms. Saddler Jones welcomed everyone and stated that the Woodberry Group had requested the rezoning of ten single-family residential properties on the west side of Bell Drive from R-15 to RM-15-Conditional for the development of a 59 unit townhome subdivision at a density of 12.52 units per acre. The 59 units will be split between 11

buildings ranging between 5 to 6 units per building. The community will be comprised of sixteen twenty-two foot wide townhomes; fifteen twenty-six foot wide townhomes; and, twenty-eight twenty-five foot wide townhomes. The townhomes will consist of a mixture of front and rear loaded two-car garages, which shall be designed to accommodate two vehicles. The twenty-two and twenty-six foot wide homes will front on Bell Drive and have rear-entry garages. The twenty-five foot wide homes will be located along a private street and have front-entry garages. The floor areas of the townhomes will range between 1,800 sq. ft. and 3,000 sq. feet. The townhomes will employ a variety of traditional architectural features. The building facades will include, but not be limited to brick, stone, cement-fiber siding, wood or cement-fiber shingles, and other materials per the attached rendering. The applicant has provided elevations and floor plans for both townhome products for review with the zoning application. This item was moved from the September 11, 2017 Planning and Zoning Meeting to the October 9, 2017 meeting due to Hurricane Irma.

Mayor Bacon announced the public hearing he asked if anyone was in opposition or would like to speak on the proposed rezoning to come forward. No one came forward; Mayor Bacon closed the public hearing.

Mayor Bacon stated that the rezoning was in Councilmember Derek Norton's district.

Councilmember Norton asked Senior Planner Rusty Martin to provide the presentation for the rezoning. Mr. Martin stated that the rezoning request was heard by the Planning and Zoning Board at the October 9, 2017 meeting and was recommended for approval for the 59 units by a vote of 6-0, at a density of 12.52 units per acre.

Mr. Martin began the presentation with the zoning map. The property is located on the west side of Bell Drive. It is the 10 lots from Spring Road to Afton Downs. There are 10 single family residences with accessory structures that the applicant, The Woodberry Group, has requested to demolish. They are requesting to build 59 new single-family attached townhome units. The required rezoning is from R-15 to RM-15-Conditional. The future land use map was shown which showed the existing future land use plan as Urban Residential, which is the proposed future land use designation. There are similar uses in the area, such as Afton Downs. The proposed site plan is shown; they are requesting variances regarding the setbacks which Community Development is in support of the variance requests due to the proposed rear entry design. There will be a new private street in the development with a 50 foot public access and utility easement. In addition staff has requested a future dedication of a 50 ft. right-of-way through the property that would eventually connect to Bell Drive or any redevelopment with the adjoining apartment complex. All other variance requests were reviewed. The proposed elevations are shown as to what the townhomes will look like.

Community Development recommends approval with conditions, there are standard conditions and special conditions. Mr. Martin read the special conditions aloud for Mayor and Council.

Councilmember Derek Norton asked Mr. Martin what the price point was to be. Mr. Martin commented that the applicant would be better served to answer the question concerning the price point.

Councilmember Susan Wilkinson inquired if the homes would be facing Bell Drive and the houses on the west be facing the other way. Mr. Martin stated the homes that abut Bell Drive will front Bell Drive. The private drive that goes around the rear, those homes will front on the private drive. The Bell Drive homes will have a rear entry and

the homes on the western entry will have front entry.

The Mayor asked if the applicant was in attendance. Garvis Sams came forward, introduced himself, and indicated that he represented The Woodberry Group. Mr. Sams stated that Mr. Martin, as always had done an excellent job outlining the principal designs of the rezoning. They had continued the rezoning prior to the Planning and Zoning Board meeting, due to Hurricane Irma but also to continue the dialog with the neighbors. He mentioned a handout presented to the Mayor and Council at the beginning of the meeting with revised elevations. The applicant represents 4.7 acres for this development that backs up to an apartment complex. He believed the apartment complex could be rezoned in the future. He believed Mr. Woodberry's proposed rezoning is a critical development as well as what happens with the Galleria Apartments.

Last year when this development was submitted, they had some opposition to the rezoning concerning traffic and roadways. The City has made improvements to Spring Road along with signalization improvements, traffic will not be a concern.

The townhomes will be in the price range of \$375,000 to \$420,000. The square footage will be 1800 – 3000 square foot; there could be an increase in square footage in this development. Driveways will be at 22 ft. to accommodate 2 cars. They have followed all the directions of public works. They do ask that the Community Development Director be available as well as the Ward Councilmember even after the conclusion of plan review to have administrative latitude for minor modifications just moving property lines but no major changes to set backs, height, or elevations. They do ask the rezoning be approved as presented.

Councilmember Derek Norton thanked Mr. Woodberry for keeping him in the loop working so well with him and being informative and helpful with the staff. This development will be a nice complement to what they did on the other side of the street. They have future connectivity for this site, which helps Galleria Apartments and Afton Downs along with future developments.

Standard Conditions

(Requirement #2, 8, 16 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. There shall be protective covenants on all lots. These protective covenants shall be supplied to the city prior to the issuance of a building permit.*
- 3. 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.*
- 4. The detention 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.*

5. *All utilities within the development shall be underground.*
6. *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.*
7. *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.*
8. *The development of any streets (including private) shall conform to the city's standards for public right-of-ways.*
9. *No debris may be buried on any lot or common area.*
10. *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".*
11. *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.*
12. *All landscape plans must be prepared, stamped, and signed by a Georgia Registered Landscape Architect for any common areas or entrances.*
13. *All yards and common areas are to be sodded, and landscaped. Irrigate as appropriate.*

Special Conditions

14. *The development shall maintain the following setbacks:*

*Front - 10' (from existing right-of-way)
Front - 10' for front porches, porticos & stoops
North Side - 20'
South Side - 10'
Proposed Future Right-of-Way - 10'
Rear - 20'*

15. *The buildings within the development shall maintain the following building separations:*

*Front to Rear- 50'
Side to Side - 20'*

16. *Each townhome building shall be limited to no more than six units per building.*
17. *The proposed homes shall have a minimum floor area of 1,800 sq. ft.*

18. Driveway - 22' minimum length from building face to back of sidewalk or back of curb if no sidewalk is present.
19. Each home shall have a fire sprinkler system approved by the City's Fire Marshal.
20. The rear of the townhome units shall have architectural features that delineate the individual townhome units.
21. The developer shall provide a 5' sidewalk with a 2' grass buffer along Bell Drive for the length of the development and a 5' sidewalk within the development.
22. The developer shall provide a 10' landscape buffer per Section 503 of the Zoning Ordinance along the western and southern property lines. The developer shall provide a 20' landscape buffer per Section 503 of the Zoning Ordinance along the northern property line.
23. The developer shall be responsible for any water and sanitary sewer improvements deemed necessary by the Public Works Director during construction plan review.
24. The developer shall be responsible for any fire access improvements deemed necessary by the Fire Marshal during construction plan review.
25. The developer shall provide a 50' public access & utility easement over the private street for water and sanitary sewer services. All water and sanitary sewer mains must be located within this utility easement.
26. The private street shall not be gated.
27. The developer shall dedicate a 50' right-of-way from Bell Drive to the adjoining apartment complex (as shown on the submitted site plan) for a future road at time of final platting.
28. The entrance within the right-of-way that will be dedicated to the city for a future road shall be designed to city's right-of-way requirements.
29. 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.
30. Trees shall be planted the entire length of Bell Drive and Woodland Terrace at an average spacing of no more than 40'.
31. 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.
32. Approval of the subject property for the RM-15 zoning district shall be conditioned upon the development of the property in substantial compliance with the site plan submitted 11/2/2017 created by DGM Land Planning Consultants and all zoning stipulations above.
33. The applicant shall be bound to the elevations submitted and dated 8/17/2017 & 9/26/2017. Building fronts shall have a staggered appearance. Approval of any change to the elevations must be obtained from the Director of Community Development.

34. The additional stipulations agreed upon by the applicant in the letter submitted and dated on September 26, 2017. If there should be a discrepancy between the stipulations in the September 26, 2017 letter and the stipulations stated above, the stipulations stated above shall apply.

35. Channel protection shall be required, discharge into an MS4 maintained system cannot be considered for relief from this design.

36. The detention facility shall be designed to delay the peak flows sufficiently to allow the downstream system to develop adequate capacity.

37. The detention facility shall not be located under the private streets. If required volumes cannot be achieved within the proposed footprint, extending reinforced concrete pipes under the streets may be considered at the City Engineers discretion.

A motion was made by Councilmember Derek Norton to approve zoning request Z17-016 - Rezoning from R-15 to RM-15-Conditional for the development of 59 townhome units - 4.71 Acres - Land Lot 809 - 2708, 2720, 2732, 2742, 2754, 2766, 2776, 2788, 2800 and 2812 Bell Drive - The Woodberry Group, LLC,; seconded by Councilmember Doug Stoner.

The motion to approve carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

C.

Public Hearing - Zoning Request Z17-018 - Rezoning from FC to RAD-Conditional for the development of two single-family homes - 0.446 Acres - Land Lot 452 - 990 Dell Avenue - Kimberly Norwood Properties, LLC.

Sponsors: Stoner

Mayor Bacon requested City Administrator Tammi Saddler Jones to provide the background. Ms. Saddler-Jones stated, Kimberly Norwood properties, LLC is requesting the rezoning of 990 Dell Avenue from Future Commercial (FC) to RAD-Conditional for the development of two new single-family homes at a density of 4.48 units per acre. The existing home on the property and two new homes will front on Dell Avenue. The submitted elevations reflect a more traditional style home with a mixture of exterior facade materials and architectural elements. The design of both homes will enhance the architectural standards of the general neighborhood.

This item was moved from the September 11, 2017, Planning and Zoning Board Meeting that was canceled due to Hurricane Irma. This zoning request was heard by the Planning and Zoning Board at the October 9, 2017 meeting and was recommended for approval by a vote of 6-0. Community Development recommends approval of the request rezoning from FC to RAD-Conditional for the construction of two new single-family residences at a density of 4.48 units per acre.

Mayor Bacon stated that this rezoning is located in Ward 3 and since there is no position there he asked Councilmember Doug Stoner to bring this item forward.

Councilmember Stoner invited Senior Planner Rusty Martin back up to talk about the rezoning. Kimberly Norwood Properties, LLC is seeking rezoning for subject property from future commercial to RAD-conditional for two (2) new single-family homes at a

density of 4.48 units per acre. The Planning and Zoning Board recommended approval by a vote of 6-0.

The subject property is located on the southeast corner of Dell Avenue and Evelyn Street. There is one existing home that will be demolished and two (2) new homes built. The subject properties to the east and west are future commercial and to the North is R-15. The future land use map has a medium density residential land use classification since the proposed zoning is under six (6) units per acre. There will be no change in that land use classification. The proposed site plan is presented and how the homes will lay on the lot. They will both be oriented toward Dell Drive and they will both have their own individual driveways and be front entry homes.

With this zoning there are specific setbacks with the front being 25 ft., interior side being 7 ft., the street side being 10 ft. and the rear being 30 feet. The locations of the proposed storm water detention facilities are shown each lot will have its own facility. There will be a 5 ft. right of way dedication to bring Dell Avenue up to the minimum city standards of 50 feet. They are proposing a new sidewalk and connecting the sidewalk to the existing sidewalk on Evelyn Street that connects to the Linear Park. The proposed home elevations are presented along with a current site view.

Community Development recommended approval from future commercial to RAD-conditional for two (2) single-family homes with a density of 4.48 units per acre with the following conditions:

Mayor Bacon inquired if anyone had any questions for Rusty. No one had questions Mayor Bacon had a question about the sidewalk on Dell. He wanted to know if the sidewalk connects to another sidewalk. Rusty stated no, but it will start a connection down to the Linear Park.

Mayor Bacon said he had failed to announce the public hearing, so he announced the public hearing for any public comment, no one came forward. He asked the applicant if they wanted to say anything.

Mayor Bacon called on the applicant. Sean Murphy came to the podium and explained that he represented the applicant. He said that he and Rick had been before the council before. They are planning to convert another rental unit.

Mayor Bacon commented that if anyone had not had the opportunity to drive down Dell Avenue or McClendon they should go. The community is being transformed and is really looking great. They have some of the older houses that are rental property and are building nice homes. He thanked Sean Murphy and Rick with Kimberly Norwood for what they were doing.

Councilmember Susan Wilkinson questioned where the sidewalk was located on Evelyn. Sean Murphy answered that there is property they don't own. They had just finished on McClendon they do not own a piece but they will put a sidewalk in front of the property they are requesting the rezoning for on Dell Avenue and it will connect to the Linear Park sidewalk.

Standard Conditions (Requirement #1, 2, 3, 4, 8, 9, 10 and 17 from Section 1201 of the Zoning Code is not applicable.)

1. The stormwater management facility 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.

2. All utilities within the development shall be underground.

3. 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.

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

5. 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.

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

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

8. 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. 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:

9. The development shall maintain the following setbacks:

Front - 25'

Side - 7'

Street Side - 10'

Rear - 30'

10. Driveway - 22' minimum length from building face to back of sidewalk.

11. The right-of-ways along both Dell Avenue shall be increased to 50 feet. Therefore, a dedication of approximately 5' feet is required along Dell Avenue.

12. The developer shall provide a 5' sidewalk with a 2' grass buffer along Dell Avenue for the length of the development and connect the sidewalk to the existing sidewalk in the Evelyn Street right-of-way.

13. All new water and sewer taps shall be bored.

14. 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.

15. 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 8/14/2017 created by Sean J. Murphy.

16. The architectural style, composition and treatment of the residences shall be in substantial conformity to the renderings/elevations submitted on 8/14/2017. However, should minor modifications be required during the Plan Review process, said modifications shall be subject to the review and approval of the Director of Community Development.

A motion was made by Councilmember Doug Stoner to approve zoning request Z17-018 - Rezoning from FC to RAD-Conditional for the development of two single-family homes - 0.446 Acres - Land Lot 452 - 990 Dell Avenue - Kimberly Norwood Properties, LLC. with conditions; seconded by Charles (Corkey) Welch. The motion to approve carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

5. Privilege Licenses:

A. Public Hearing - Privilege License Request LIC2017-21 - Cigar Specialty License - Beer, Wine, and Liquor Pouring - 2997 Cumberland Boulevard STE 210 -- Ujamaa Collective LLC dba Maduros Cigar Shop with Samuel Franklin Patterson II as the agent.

Sponsors: Norton

Mayor Bacon called on City Administrator Tammi Saddler Jones to provide the background. Samuel Franklin Patterson II will be the registered agent, responsible for the sale of alcohol at the referenced location. Samuel Franklin Patterson II has been given a copy of the Alcoholic Beverage Ordinance and has attended the mandatory alcohol awareness workshop. Mr. Patterson has agreed to abide by the guidelines set forth by the ordinance governing the sale of alcohol. A background investigation was conducted by the Smyrna Police Department and it failed to reveal any information that would preclude issuance of this license. Staff recommended approval.

The Mayor announced the Public Hearing and called for public input on this Privilege License and there was none.

The Mayor requested Councilmember Derek Norton conduct the license hearing. City Attorney Scott Cochran swore in the applicant. Mr. Norton thanked Mr. Patterson for doing business in Smyrna. He confirmed that the applicant attended the mandatory class and satisfied all the requirements to serve alcohol in Smyrna. Mr. Patterson stated that he had. He stated he is also aware that the Smyrna Police department frequently checked businesses to ensure compliance. The applicant stated that he looked forward to it. Mr. Norton stated the City is glad that they are doing business in Smyrna and happy that all the details have been worked out. The City has looked forward to having them here for a long time.

A motion was made by Councilmember Derek Norton to approve privilege license request LIC2017-21 - Cigar Specialty License - Beer, Wine, and Liquor Pouring - 2997 Cumberland Boulevard STE 210 -- Ujamaa Collective LLC dba Maduros Cigar Shop with Samuel Franklin Patterson II as the agent; seconded by Councilmember Doug Stoner.

The motion to approve carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

B. Public Hearing - Privilege License Request LIC2017-22 - Beer Pouring - 2995 Atlanta Road STE A-160 - Willy's Mexican Grill Inc dba Willy's Mexicana Grill with Terry Green as agent.

Sponsors: Stoner

The Mayor called on the City Administrator Tammi Saddler Jones to provide the background for this request. Ms. Saddler-Jones stated that Terry Green will be the registered agent, responsible for the sale of alcohol at the referenced location. Terry Green has been given a copy of the Alcoholic Beverage Ordinance and attended the mandatory alcohol awareness workshop. Mr. Green has agreed to abide by the guidelines set forth by the City of Smyrna ordinance governing the sale of alcohol. A background investigation conducted by the Smyrna Police Department failed to reveal information that would preclude issuance of this license. Staff recommends approval.

Mayor Max Bacon announced the Public hearing and asked for public comment there was no public opposition or comment to this license request.

Councilmember Doug Stoner called the applicant forward and Mr. Green was sworn in by Mr. Cochran. Mr. Stoner welcomed Willy's Grill to the City. Mr. Stoner confirmed that Mr. Green had attended the mandatory classes and understands Smyrna's regulations. The applicant stated that he had. Mr. Stoner also reiterated that the Smyrna Police Department often checked to make sure that businesses are in compliance with the City's alcohol ordinance. The applicant stated that he understood that fact. The applicant had no questions.

A motion was made by Councilmember Doug Stoner to approve for privilege license request LIC2017-22 - Beer Pouring - 2995 Atlanta Road STE A-160 - Willy's Mexican Grill Inc dba Willy's Mexicana Grill with Terry Green as agent.; seconded by Councilmember Doug Stoner.

The motion to approve carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

6. Formal Business:

A. **Second Public Hearing:** Approve the Amendment to the City of Smyrna's Code of Ordinances, Chapter 98 entitled Traffic and Vehicles, to include Section 98-10 Prohibiting the use of handheld Mobile Telephones or Portable Electronic Devices while operating a Motor Vehicle

Sponsors: Norton

Mayor Bacon asked Councilmember Derek Norton to provide the background on the ordinance he authored.

Councilmember Derek Norton thanked the Mayor. He brought the ordinance forward, due to increasing concern about distracted driving. He read the preamble of the ordinance and spoke of discussions he had been part of over the last few weeks. Councilmember Norton stated, the distracted driving fatality rate in Georgia has outpaced the national average. He added as he observed drivers around the city, he was alarmed at the number of people who are looking at their phones while driving. He wants to save lives through this ordinance. No person will be allowed to hold a cell phone while driving a vehicle.

The testimony of the injured victims, affected families, advocacy groups and law enforcement was gut wrenching and brought to light how serious the problem has become. The current texting and driving law is hard for law enforcement to enforce. Smyrna Police Chief David Lee has affirmed that the Hands Free Law would make it easier for law enforcement to enforce the law. The ordinance seeks to change drivers behavior in Smyrna. It requires all cellphone talk be hands free. Since the introduction of the Hands Free Ordinance, they have made certain changes to address citizens concerns. They added the ability to answer a call or initiate GPS by touching the phone while it is resting but not in hand. The planned effective date of the ordinance is January 1, 2018. The Smyrna Police Department will issue warnings in the first 60 days. The fine will be set at \$150.00. An educational video will be created to help driver awareness. The language in the ordinance expires in 2 years to allow reevaluation of the law for changes in behavior and increasing technology changes. Councilmember Norton strongly stated there is no motivation to raise revenue by adopting this ordinance. He stated that his desire was to change behavior and try to keep the City of Smyrna safe.

Mayor Bacon announced the Public Hearing and asked for public comment from anyone who wanted to speak regarding the subject, City Attorney Scott Cochran administered the oath and swore in eight (8) people.

Councilmember Derek Norton added that he would like to invite Kathy, Halley and Craig Clark to speak.

The family approached the podium. Greg Clark spoke for the family. He grew up in Smyrna and graduated from Campbell High school in 1983 with Councilmember Doug Stoner. They lost their daughter Emily Clark two (2) years ago.

They were five Georgia Southern nursing students on I-16 heading to their last day of clinical rotations. While at a full stop waiting for an earlier accident to clear, a tractor-trailer hit them from the rear at 5:40 AM. The driver never swerved or stopped. All five lost their lives. Mr. Carter stated that it takes a minute for your life to change, if this law saves one (1) life it is working. He is proud of the City of Smyrna to pass this law. With the holidays around the corner, the loss becomes clearer. It is even more real when you look at the empty chair at the table and no one is there. Kathy Clark thanked the City of Smyrna for the Hands Free Ordinance.

Mayor Bacon asked the family why they thought the state had not voted on a law like this one statewide. Mrs. Carter answered, that she thinks it is hard for people to see the need to have a hands free law; it is difficult for people to think that tragedy could happen to their families, until it happened. Mayor Bacon thanked them for their comments.

Mandy Sorohan approached the podium and introduced herself. Ms. Sorohan resides

in Rutledge, Georgia. She came to speak about the loss of her loved one, her son Caleb, she held a picture of Caleb up for the council to see. In 2009, Caleb had a very big year, he graduated high school, started college, turned eighteen and he died that year. He was home from college for winter break; he had just finished his first semester. He was going Christmas shopping with a friend on December 16th. He and his friend were texting back and forth about where they were going to meet. As Caleb was looking down at his phone, he swerved into the other lane and hit another car head on. Ms. Sorohan held up a picture of the accident and then a picture of Caleb's car. Caleb died instantly.

In 2010, her daughter and her friends lobbied for the no texting and driving law. They were happy that the law passed. The state named the law, "Caleb's Law". The reason they wanted this law was to educate people about distracted driving it was not about revenue they just did not want another family to go through what their family had gone through. Ms. Sorohan stated, that important phone call or text that you feel is necessary to answer can cost someone his or her life. When you lose someone through a distracted driving accident, you realize that those important calls or texts are not so important. She thinks it is past time for more laws in Georgia.

Jenny Hardy from Johns Creek Georgia, is a member of the AAA Board of Directors and the Community Relations Director of the, I ride safe program which is supported by the Law Firm of David Montlick and Associates. She is passionate and committed to highway safety. Her family was involved in a violent car crash. A logging truck blew through an intersection and hit the tail end of an SUV. The SUV lost control and shaved off the left side of their van and they ended up in a deep ravine. The log truck driver ran from the scene of the accident, they never knew who hit them and would never find out. Their youngest daughter Madison survived. She was 5 years old at the time and was still in a booster seat. She endured multiple surgeries to put herself back together. Ms. Hardy found the law to be weak in Georgia and fought to get a booster seat law to pass. When they finally passed the law they called it the "Madison Law", which is to require a child to be in car seat or booster seat until the age of eight (8). Every day, she gets an email from the Governors office of highway safety in Georgia. When she got the report that morning there were 1348 fatalities in Georgia. Some people may say these are statistics. Each fatality is someone's life. She supports the efforts to save lives.

Mayor Bacon inquired of Ms. Hardy why she thought the state was not looking at a law for Hands Free driving. Ms. Hardy stated, the state has put together a study committee. She has been president of each one of the study committee meetings, she is hopeful they will draft a bill that will go forward in January 2018.

In the House and at the Capitol they have to wait for the right temperature to know the atmosphere of the Capitol to make sure it will have enough votes to pass. They want to start out with a strong bill and a law to insure they do not walk away with less than they started with.

Kyle Kirkland came forward; he has been a resident of Smyrna for about 10 years. He explained that on October 16, 2016 a distracted driver who ran a red light killed his sister on Highway 41. Mr. Kirkland is in favor of a law such as the Hands Free ordinance the city is looking to pass; his concern is the enforcement of the law. He felt that stopping distracted driving is what needs to happen, but his frustration is the person who killed his sister and faced no charges. He ran a red light and he admitted to it. He hired the right attorney who got him out from under it, now his sister is dead and the driver that hit her is out there living his life. She was his last living relative. He

wants to make sure the elected bodies are willing to enforce the laws and hold those that break the law accountable. He offered his condolences to everyone that has lost a loved one.

Councilmember Derek Norton stated before he brought this ordinance forward he had a discussion with Chief Lee where he explained the issues of the current no texting law and how difficult it was to enforce. He continued to explain that the Hands Free ordinance contains strict language to be enforced. If someone is holding a cell phone or device in their hand they will be fined. Chief Lee felt that with this new ordinance, it would make it easier to enforce. Councilmember Norton committed to everyone, the ordinance will be enforced by the Smyrna Police Department

Anne Turner is a resident of the City of Austell. She is a motorcyclist. They are a vulnerable section of the road users. People in cages frequently force them off the road. Drivers' do not see them and they do not have any rights. They do not represent a threat to anyone in cages neither does a bicyclist, however the bicyclists have more rights than those riding motorcycles. She feels like the person before her, that this is a feel good moment for those trying to get the law passed. She wanted to know how they will enforce the law, if police officers are on his or her phones. What happened to drivers' education? She liked the idea and wants something done and a penalty that needed to be strong enough to hit where it hurts, their pocket book.

Bill Strickland, Lexington Trace, Smyrna, said he has lived in Smyrna for 18 years. He was thrilled when he heard about the ordinance. He stated everyone is guilty of driving while texting, fingers on the phone. He admitted he is guilty of being on his phone. While on I-75 sitting in a long line of traffic, he was stopped by a State Trooper for being on his phone. The State Trooper would not have seen him if he had not been stopped.

We had a major accident on spring road and wondered if distracted driving was the cause. He is worried about people running a red light. He thinks drivers need to use Bluetooth devices for calling by voice and use GPS by voice it will tell turn by turn. He questioned why people could not pull over on the side of the road to use the phone. The state is not doing anything because they are afraid to make someone unhappy. He is proud the City Council for bringing this ordinance up for a vote.

Councilmember Andrea Blustein inquired about the effective date of the ordinance for January 2018. Mayor Bacon explained that the Council had discussed during the pre-meeting that he would prefer all council members be present to vote for the wards they represent. There is a run-off election for the ward 3 representative on December 5, 2017. Mayor Bacon stated the council could vote on the ordinance as early as December 18, 2017 or it would be after January 1, 2018.

Councilmember Andrea Blustein stated, you can change laws all day long but if you don't work at changing behavior you haven't changed anything.

Councilmember Derek Norton commented on Councilmember Blustein's point that we do need to start the education of how dangerous distracted driving is. He thanked the guests for attending the council meeting.

A public hearing was held for Ordinance 2017-15 prohibiting the use of handheld mobile telephones or portable electronic devices while operating a motor vehicle. During the public hearing there were several people in attendance who spoke in favor of this ordinance and those that spoke against the passing of this ordinance. After the public hearing closed, Mayor Bacon announced the City of Smyrna would be the first city in

the state of Georgia to hear and vote on an ordinance of this kind. He would prefer to not vote on this ordinance until all Council Members were present. He felt all Wards should be represented for an ordinance that was of this importance for so many people. There would be a second public hearing prior to voting on the ordinance.

B. Approve Final FY 2017 Budget Amendment

Sponsors: Norton

The Mayor called on City Administrator Tammi Saddler-Jones to give the background on the budget amendment. She stated that an annual audit of the City's financial statements is required at the conclusion of the calendar year. In order to close out the year and finalize the financial statements, final adjustments to the budget need to be made to account for various transactions. In addition, 2011 and 2016 SPLOST budgets need to be amended to reflect the most current information. Staff recommends approval of the budget amendment.

Councilmember Norton recognized the City's Financial Director, Kristin Robinson to discuss the amendment. This is a normal procedure at the end of every audit to reconcile accounts to the financial statements. These adjustments are less than they have been in the past.

Mr. Norton reiterated that this amount is less than in previous years and he commended the staff on their hard work.

A motion was made by Derek Noron to approve the FY2017 Budget Amendment; seconded by Councilmember Charles (Corkey) Welch.
The motion to approve carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

C. Approval of a General Services Contract between the City of Smyrna and Croy Engineering for professional services for project management.

Sponsors: Welch

The Mayor asked Ms. Saddler-Jones for the background for the contract. The Finance and Administration Committee discussed the need for a General Services Contract with Croy Engineering. The City currently has a contract with Croy Engineering for SPLOST program management, but there is not a contract in place for the other services that Croy provides to the City. This contract is considered a Professional Services Contract and therefore, is exempt from State purchasing regulations. The proposed contract was reviewed during the November 14, 2017 Finance and Administration Committee meeting and it was recommended by this committee that the contract come before the full Council for approval. The Finance and Administration Committee as well as Staff recommended approval of the contract.

Councilmember Charles (Corkey) Welch stated that the City worked with Croy Engineering on the SPLOST projects and the company does an exemplary job for the City.

A motion was made by Councilmember Charles (Corkey) Welch to approve a General Services Contract between the City of Smyrna and Croy Engineering for professional services for project management; seconded by Councilmember Derek Norton.
The motion to approve carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

- D.** Authorize the acquisition of real property, by all lawful means, for improvements to Windy Hill Road. This authorization includes adopting a Resolution and Declaration of Taking for each parcel.

Sponsors: Norton

Mayor Bacon asked the City Administrator to give the background for this item. Ms. Saddler- Jones continued with this authorization is for the acquisition of real property, by all lawful means, for improvements to Windy Hill Road. This authorization includes adopting a Resolution and Declaration of Taking, if necessary, for parcels that are not purchased through negotiated sale. The property is situated adjacent to the existing right of way and within an area stretching from its intersection with Atlanta Road to its intersection with South Cobb Drive and are identified as follows: 865 Cherokee Trail; 861 Cherokee Trail; 743 Windy Hill; 997 Windy Hill; and 925 Windy Hill Road. Staff recommends approval.

Councilmember Norton asked if there were any questions or comments about the authorization and there were none.

A motion was made by Councilmember Derek Norton 2017-45 to authorize the acquisition of real property, by all lawful means, for improvements to Windy Hill Road. This authorization includes adopting a Resolution and Declaration of Taking for each parcel; seconded by Councilmember Doug Stoner. The motion to approve carried by the following vote.

Aye: 4 - Councilmember Norton, Councilmember Blustein, Councilmember Welch and Councilmember Stoner

Nay: 1 - Councilmember Wilkinson

Absent: 1 - Councilmember Fennel

7. Commercial Building Permits:

There were no Commercial Building Permits

8. Consent Agenda:

City Administrator Tammi Saddler-Jones read the Consent Agenda aloud for Council approval.

Mayor Bacon announced that item 8 E would be removed from the consent agenda and voted on separately.

A motion was made by Councilmember Susan Wilkinson to approve items A, B, C, D, F, G and H as read aloud by City Administrator Tammi Saddler Jones for vote on the consent agenda; seconded by Councilmember Andrea Blustein.

The motion to approve the named items carried by the following vote:

Aye: 5 - Councilmember Norton, Councilmember Blustein, Councilmember Welch, Councilmember Wilkinson and Councilmember Stoner

Absent: 1 - Councilmember Fennel

- A. Approval of the November 6, 2017 Mayor and Council Meeting Minutes
Sponsors: City Council
- B. Approval of the November 6, 2017 Pre-Council Meeting Minutes
Sponsors: City Council
- C. Approval of the November 2, 2017 Committee of the Whole Meeting Minutes
Sponsors: City Council
- D. Approval for Worker's Compensation coverage for Smyrna Police Reserve Officers
Sponsors: Norton
- F. Approval of the installation of No Parking signs along Corn Road as determined by the City Engineer.
Sponsors: Blustein
- G. Appointment of Scott Andrews as an Alternate Member for the License and Variance Board
Sponsors: Fennel
- H. Authorize Atkins Park Tavern to operate a beer/wine/specialty two-item cocktail station, beyond the boundaries of the premises (of Atkins Park Tavern) covered by the license, at the Smyrna Ugly Christmas Sweater Block Party & Movie Night event in the downtown area Wednesday, December 20, 2017 (5:30 p.m. until 8:00 p.m.) at an assigned vendor space within the approved event. The exact location of the cocktail/drink station is to be within the food service area for the event, from W Spring Street to Village Green traffic circle, and from Village Walk/Bank Street to King Street SE. Streets closed during the event will be King Street in front of the Veteran's Memorial, from Bank Street to Village Green Circle in front of Community Center.
Sponsors: Wilkinson

Consent agenda (E) removed from the consent agenda at the request of Mayor Bacon

- E. Award RFP 18-004 Demolition and Asbestos abatement of 575 Windy Hill Road to the lowest bidder Complete Demolition Services for \$47,000.00 and authorize the Mayor to execute any related documents.
Sponsors: Wilkinson

Mayor Bacon requested this item be taken out of the consent agenda to be voted on separately.

A motion was made by Councilmember Derek Norton to award RFP 18-004 for the demolition and asbestos abatement of 575 Windy Hill Road to the lowest bidder - Complete Demolition Services for \$47,000.00 and authorize the Mayor to execute any related documents; seconded by Councilmember Doug Stoner.
The motion to approve carried by the following vote:

Aye: 4 - Councilmember Norton, Councilmember Blustein, Councilmember Welch and Councilmember Stoner

Nay: 1 - Councilmember Wilkinson

Absent: 1 - Councilmember Fennel

9. Committee Reports:

Ward 1 - Councilmember Norton had no report.

Ward 2 - Councilmember Blustein wished everyone a Happy Thanksgiving.

Ward 4 - Councilmember Welch had no report.

Ward 5 - Councilmember Wilkinson reported from the Library that there is a Lego Show on December 2 from 10:00 – 5:00 and December 3 from 1:00 - 5:00. This will be a fundraiser for the library. Tickets will be sold at the door. The Annual Friends of the Smyrna Library Holiday party will be December 9th from 6:30 – 8:30 at the library. There will be refreshments, entertainment from the Pebblebrook High School orchestra and holiday merchandise for sale. She also reported that the Annual Tree Lighting, "Coming Home for the Holidays" event will be November 28th from 5:00 – 9:00. December 4th, there will be a ribbon cutting for Rose Garden Park, time to be announced. December 9th from 5:30 to 9:00pm, there will be a Smyrna Ugly Christmas Sweater Block Party & Movie Night event in the downtown area. The movie will be shown on the lawn at the Village Green. December 15th will be Christmas at Brawner Hall which will include a coat drive and a movie will be shown. December 16th at the Community Center, there will be "Brunch with the Big Guy." Ms. Wilkinson encouraged all citizens to check the website for more details.

Ward 6 - Councilmember Stoner had no report.

City Clerk Terri Graham reminded citizens that there will be a run-off for the special election on December 5, 2017. Advanced voting begins November 27 through December 1, 2017. Voting will be held at the Cobb Elections Board main office on Whitlock Avenue and at the Community Center. This will be to fill the vacant Ward 3 seat on the City Council. There will be no voting on Monday, December 4th, and Election Day is December 5th from 7:00 am to 7:00 pm.

10. Show Cause Hearings:

There were no Show Cause Hearings

11. Citizen Input:

Mayor Max Bacon stated there were several people signed up for Citizen Input.

Alex Backry of Shawnee Trail discussed his request in previous meetings to have a town hall meeting on the Windy Hill issues. This is a \$42 million dollar project and there have been no meetings to inform citizens of the issues involved. He believes the money could be used better in the City and the citizens should have inputs on this. He called again for a town hall meeting so people can ask questions on this and other issues. Mr. Backry also stated in his opinion the police do not do not do enough to make drivers turn their headlights on when it is raining. It is a state law to have them on and he would like to see this law enforced. He asked that the Mayor encourage them to enforce this.

Monica Delancy of Riverside Parkway, is concerned about the number of evictions in Cobb County. She stated that many low income citizens are paying more than 30% of their income on rent. Ms. Delancy explained the problems and the processes of eviction. She requested that forced evictions be halted during the holiday season and that the City Council make this request to the Cobb County Board of Commissioners.

Betty Lou Johnson of Crestline Drive, expressed her concerns about rent control. She does not understand how rent should have doubled. She speculated this is because of the new stadium. She also was concerned about bushes by the roads that obstruct the view of drivers and make it difficult to avoid accidents. She added that there needs to be more available bus transportation to citizens in Smyrna. Lastly, she stated that on Cumberland Parkway, there are not enough line markings in the Cumberland Mall area to Windy Hill. There are not enough markings for turn lanes. The Mayor informed her that many of her issues should be addressed to Cobb County and the Council would be glad to let her know who to contact.

12. Adjournment:

Mayor A. Max Bacon adjourned the meeting of the Mayor and Council at 9:02 PM