

**MINUTES OF MAYOR & COUNCIL MEETING  
CITY OF KENNESAW  
Council Chambers  
Monday, August 2, 2010  
6:30 p.m.**

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Mayor Mathews opened the meeting at 6:32 p.m.

Present: Mayor Mark Mathews  
Mayor Pro-tem Tim Killingsworth  
Councilmember Jeff Duckett  
Councilmember Bruce Jenkins  
Councilmember Bill Thrash  
Councilmember Cris Welsh  
City Clerk Debra Taylor  
City Manager Steve Kennedy  
City Attorney Randall Bentley

**I. INVOCATION**

The invocation was led by City Attorney Randall Bentley.

**II. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Tyler and Trevor Armentrout of Troop 422, St. Catherine's Church.

**III. CALL TO ORDER**

**IV. ANNOUNCEMENTS**

None.

**V. PRESENTATIONS**

- A. This proclamation is to recognize the efforts of AT&T Georgia Pioneers volunteer organization by declaring August 2010 as "Light Up Georgia" month. The Georgia Pioneers will visit low-income senior centers throughout Georgia, install or distribute more than 2,000 Compact Florescent Light bulbs (CFLs) and handout environmental information in an environmentally friendly bag. The NW Metro and NW Metro Life Councils will be installing 100 bulbs at Laurel's Edge Apartments, 3950 Frey Rd, Kennesaw on August 18th. The Apartments are owned by United Church Homes and are HUD subsidized.

Mayor Mathews presented the Proclamation to Don Barbour (AT&T), Nance Stuppleworth, Eddie Hyman and Glenda Stephens of the NW Georgia Pioneers. Mr. Barbour explained the process and said they volunteer more than 2,000 hours annually. These CFLs will be provided to low income housing and senior centers statewide. The volunteers received a round of applause from the Mayor, Council, staff and public.

## **VI. OLD BUSINESS**

No items.

## **VII. NEW BUSINESS**

No items.

## **VIII. PUBLIC HEARING(S)**

No items.

## **IX. CONSENT AGENDA**

- A. Approval of the July 19, 2010 Mayor and Council meeting Minutes.
- B. Approval of a **RESOLUTION NO. 2010-37, 2010** to adopt the Vehicle Safety Standards for taxicabs and limousines. Kennesaw Code of Ordinances, Chapter 22 "Businesses," Article XIII "Taxicabs and Limousines," Section 22-364 "Vehicle Safety Standards, Verification" states the Police Department shall recommend minimum motor vehicle safety standards for approval by the Mayor and Council. The Police Department has provided this list and the City Clerk recommends approval of the Resolution to adopt these safety standards.
- C. Release Maintenance Bond/Letter of Credit #2004 114 in the amount of \$9,000.00 by Georgian Bank for Pin High Properties, LLC for Pine Mountain Storage. This \$9,000.00 Bond/Letter of Credit was for Pine Mountain Storage and has expired. The Public Works Director recommends release of bond.
- D. Release Maintenance/Performance Bond #20BSBCK4324 in the amount of \$3,000.00 by Hartford Fire Insurance Company for Loven Homes, Inc. This \$3,000.00 maintenance bond was for Loven Homes, Inc. for Lot Number 45 of the Palisades Subdivision in Legacy Park, and has expired. Public Works Director recommends release of bond.
- E. Release Maintenance/Performance Bond #22880321 in the amount of \$5,000.00 by Western Surety Company, for O'Reilly Auto Parts. This \$5,000.00 maintenance bond was for O'Reilly Auto Parts, and has been inspected and approved by Public Works Department. The Public Works Director recommends release of bond.
- F. Approval to close Main Street from 7:30 am-9:00 am on Saturday September 11, 2010 from Kennesaw Baptist Church to Swift-Cantrell Park for the Great Locomotive 5K Race. This race is to benefit the Southern Museum of Civil War and Locomotive History. The race begins at the Kennesaw Baptist Church. The runners loop around the outer trail at Swift -Cantrell Park and finish up in downtown Kennesaw. Events Committee recommends approval.
- G. Approval to close Main Street from Kennesaw First Baptist Church to Swift-Cantrell Park from 4:30 pm-6:00pm on Saturday December 4, 2010 for the Elf Trot and Merry Mile Race. Race begins at Kennesaw First Baptist Church on Main Street turning into Swift-Cantrell Park. Runners loop around the outer trail

and finish in downtown Kennesaw. Proceeds from this race will benefit the Kennesaw Downtown Development Authority. The Events Committee recommends approval.

- H. Authorize the City Manager to execute all required documents associated with the City's participation in the Cobb County Safety Village (CCSV) through a sponsor agreement. The City's participation in the CCSV will provide support for the provision of Global Safety Instruction to the students in the local schools. The experience at the CCSV is part of a school curriculum which qualifies as instructional time and is not classified as a field trip. The specific site associated with this agreement is Lot #15 as shown on the Site Plan for the CCSV dated February 26, 2007. The sponsor fee for this agreement is \$35,000 and will be paid in two installments. This participation will provide for a Depot type structure to be constructed where specific train and railway safety instruction will be taking place. The fee stated includes the base pad fee, total construction costs and the contribution to a maintenance fund to be used to maintain the structure. City Manager recommends approval. FUNDING LINE: Current Payment for FY 2009-10 100.1100.55.1050 (Mayor and Council Contingency) \$17,500 and Future Payment for FY 2010-11 Mayor and Council budget - to be determined \$17,500.

Councilmember Thrash requested this item be pulled from the Consent Agenda.

- I. Approval of Shaw-Hankins/The Bottoms Group as Brokers for the City of Kennesaw Health Benefit plan. This firm will work with the City Manager, HR Director and Finance Director to select the various carriers for health coverage, Third Party Administrator Services (TPA), Wellness Program provider and Dental Plan. These recommendations will be presented to the Benefits Committee when recommendation is ready. There are other elective vendors that may be part of the tasks for the Broker. Three firms provided information about their ability to offer the services associated with a Broker Relationship. They were MSI Benefits Group, Fallon Benefits Group and Shaw-Hankins/The Bottoms Group. Many factors were considered in the evaluation of the three proposals. The consensus was that Shaw-Hankins/The Bottoms Group better matched the needs of the City. City Manager recommends approval based on the affirmative action of the Benefits Committee at a meeting held on July 30, 2010 to approve Shaw-Hankins/The Bottoms Group and to authorize the City Manager to execute all related documents.
- J. Approval of a **RESOLUTION NO. 2010-38, 2010** to adopt the Systematic Alien Verification for Entitlements (SAVE) Program Memorandum of Agreement (MOA) and Addendum to the Memorandum of Agreement (MOA). The City of Kennesaw desires to enter into a Memorandum of Agreement (MOA) and Addendum to the Memorandum of Agreement (MOA) with the Department of Homeland Security, U. S. Citizenship and Immigration Services (DHS-USCIS) for the Systematic Alien Verification for Entitlements (SAVE) Program. The SAVE program is an intergovernmental information-sharing initiative designed to assist Federal, State and Local government agencies, such as licensing bureaus, in determining an individual's immigration status. The information provided by SAVE will ensure that only entitled applicants will be granted the public benefits

in which they have applied. SAVE provides the immigration status of these individuals. Finance Director recommends approval.

Motion by Councilmember Thrash to add the following Over to the agenda: Authorize the City Manager and City Attorney to move forward with the selection of the Honorable G. Conley Ingram as mediator in Professional Construction Group v. City of Kennesaw, Civil Action #09-1-11169, Cobb Superior Court. Motion seconded by Councilmember Jenkins. Vote taken, approved unanimously, 5-0. Motion carried.

Motion by Councilmember Thrash to add the above mentioned Over to the Consent Agenda, seconded by Councilmember Jenkins. Vote taken, approved unanimously, 5-0. Motion carried.

Mayor Mathews called for a vote on the implied motion to approve the Consent Agenda with the addition of the Over as listed, excluding Agenda Item IX-H. Vote taken, approved unanimously, 5-0. Motion carried.

Motion by Councilmember Jenkins to table Agenda Item IX-H to the next Work Session, seconded by Councilmember Thrash. Vote taken, approved unanimously, 5-0. Motion carried.

## **X. COMMITTEE AND BOARD REPORTS**

A. YOUTH COUNCIL – on summer break. Councilmember Thrash announced the new 2010-2011 Youth Council will have their retreat on Saturday. The Chatham County Youth Council is coming to Kennesaw to participate in the retreat. The first Youth Council meeting for this session will be held August 23<sup>rd</sup>.

## **DEPARTMENT REPORTS**

**XI. PUBLIC SAFETY (Councilmember Bill Thrash)**  
**BILL WESTENBERGER, Police Chief**  
**BOBBIE DUKE, 911 Communications Director**

No items.

**XII. INFORMATION TECHNOLOGY (Councilmember Bruce Jenkins)**  
**TERI CHAMBERS, Director**

No items.

**XIII. PUBLIC WORKS (Councilmember Tim Killingsworth)**  
**EARNIE VIA, Director**

No items.

**XIV. RECREATION AND CULTURE**  
**JEFF DROBNEY, Museum and Agency Director (Councilmember Bruce Jenkins)**  
**DOUG TAYLOR, Parks and Recreation Director (Councilmember Jeff Duckett)**  
**DOUG DAVIS, Smith-Gilbert Gardens Director (Councilmember Tim Killingsworth)**

No items.

**XV. COMMUNITY DEVELOPMENT (Councilmember Cris Welsh)**  
**ROBERT FOX, Economic Development Director**  
**DARRYL SIMMONS, Zoning Administrator**  
**MARK RICE, Building Official**

- A. Final Condominium Plat for The Exchange At Wade Green submitted by Exchange At Wade Green Condo Association for property located at 3745 Cherokee Street near the intersection of Jiles Road and Cherokee Street. Property is identified and located in Land Lot 92 within the Office and Institutional (O&I) district. The final plat is being submitted for purposes of documenting the office condominium units within the office park. Staff Recommendation: Darryl Simmons, Zoning Administrator recommends approval for the final condominium plat and documenting of the office units as shown.

Zoning Administrator Darryl Simmons presented the final condominium Plat for The Exchange At Wade Green submitted by Exchange At Wade Green Condo Association for property located at 3745 Cherokee Street.

Mayor Mathews called for a vote on the implied motion to approve the Final Condominium Plat for The Exchange At Wade Green submitted by Exchange At Wade Green Condo Association for property located at 3745 Cherokee Street. Vote taken, approved unanimously, 5-0. Motion carried.

**XVI. FINANCE AND ADMINISTRATION (Councilmember Bill Thrash)**  
**GINA AULD, Finance Director**

- A. Consideration for approval of an Alcohol Beverage License for Beer and Wine Retail Package for Racetrac Petroleum, Inc. dba Racetrac #052 located at 1625 Old 41 Hwy, Kennesaw, GA 30152. Applicant: Scot Edward Munn. This is an application for a new licensee for a previous alcohol licensed establishment. The previous license at this location under the management/licensee of Mark Reese was revoked on January 20, 2009 for an underage alcohol sale. On August 5, 2008 an employee was given a citation for working without a work permit and paid a fine. On September 6, 2005 under the management/licensee, Bentley H. Tison, the license was revoked due to an underage alcohol sale. Under the same manager, the business was cited on June 27, 2003 for selling to an underage person and received 30 days suspension. The applicant has completed the required alcohol workshop. Application and background check are on file. Signs have been posted and it has been properly advertised. Finance Director recommends approval contingent upon receiving criminal investigation results from the GBI and FBI. FUNDING LINE: 100.0000.34.2310 Fingerprints \$25.00.

Finance Director Gina Auld presented the request for an Alcohol Beverage License for Beer and Wine Retail Package for Racetrac Petroleum, Inc. dba Racetrac #052 located at 1625 Old 41 Hwy, Kennesaw by applicant Scot Edward Munn. Finance Director Auld gave a synopsis of the license history for this location. The applicant was present this evening.

Attorney for the applicant, Parks Huff informed the Council that detailed changes have been made at Racetrac, most notable is “red means stop.” If identification has the red strip indicating a customer is under 21 years old, there will be no sale of alcohol even if the customer is over 21. Mr. Huff distributed a document that showed two complaints received from customers at other store locations stating they were over 21 years, had the red stripe on the license, and could not buy alcohol. This policy is now being practiced at all of their stores. The Kennesaw store has a new transaction manager that can review age verifications for tobacco and alcohol by review of videos and register transactions. Attorney Huff introduced Operations personnel from the Kennesaw location. A penalty system now reflects up the chain if a store violates the law with an underage sale of tobacco or alcohol. There will be a reduction of their bonus incentive which is part of their pay structure. The employee who makes the violation will immediately lose their job.

Councilmember Killingsworth asked if the employee is automatically terminated or does Racetrac offer retraining and a second chance. Attorney Huff said the employee is terminated. Councilmember Thrash commends Racetrac for the steps taken and retraining - this shows they’re taking this seriously, especially the “red means stop” policy.

Mayor Mathews called for a vote on the implied motion to approve an Alcohol Beverage License for Beer and Wine Retail Package for Racetrac Petroleum, Inc. dba Racetrac #052 located at 1625 Old 41 Hwy, Kennesaw by applicant Scot Edward Munn. Vote taken, approved 4-1 (Jenkins opposed). Motion carried.

## **XVII. PUBLIC COMMENT/BUSINESS FROM THE FLOOR**

6:51 PM Floor Open to Public Comments

DAVE LYONS (English Oaks HOA): Mr. Lyons discussed HOA concerns regarding the Phase III Jiles Road expansion project which directly affects nine out of 20 homes in the subdivision. The HOA put up the existing fence years ago which now must come down for the project. CDOT wants to address each parcel individually to replace the fence and will cut checks to the homeowners. The HOA’s concern is the fence will probably not have to be replaced for another year and the homeowners may no longer have those funds available – a big consideration in this economy. Can the City help to have these funds go to the HOA? The HOA would also like the replacement fence to be in the same style so it is consistent with the rest of the subdivision. Attorney Randall Bentley said the HOA, homeowners and CDOT would have to sign an agreement. If the HOA went on to these private properties to replace the fence, it could be considered trespassing. Mayor Mathews asked if the City could draft a temporary construction easement with each homeowner. This is possible, but each property owner must sign otherwise it can create a bit of liability for the HOA. Mr. Lyons said one property is bank owned. Attorney Bentley said it will only work if each homeowner signs and the City offered to help create an agreement. Mayor Mathews recommended Mr. Lyons meet with the City Manager to help move this along. Perhaps the checks can be held in escrow. Councilmember Thrash said to make sure the City Manager gets copies of any correspondence, letters, or mailers.

The second concern of the HOA is the drainage/detention area near 293 where there is a big dip near the bank. They need the help of the City Engineer to ensure there won't be flooding in the future into the subdivision. The Mayor asked about the blowout with the flood status and Mr. Lyons responded the HOA is still waiting and they will eventually fence the area.

7:00 PM Floor Closed to Public Comments

### **XVIII. CITY MANAGER'S REPORT - Steve Kennedy**

City Manager Steve Kennedy thanked Steve Welsh for his participation and advice regarding concerns of skateboarding in the underpass and potential damage. Some deterrents will be set up in the future.

### **XIX. MAYOR'S REPORT**

A. Mayoral appointments to standing Boards and Committees. Appointments to any Boards and Committees made by the Mayor to fill any vacancies, resignations, and to create or dissolve committees, as deemed necessary.

No items.

B. Appointments to any Boards and Commissions requiring appointments by the Council. This item is for (re)appointments made by the City Council to any Board or Commission requiring an appointment to fill any vacancies or resignations.

Councilmember Duckett appointed David Ermutlu to fulfill the vacancy by Rhandi Gallegos with a term ending December 2010.

Motion by Councilmember Thrash to ratify the appointment by Councilmember Duckett of David Ermutlu to fulfill the term on the Historic Preservation Commission, seconded by Councilmember Killingsworth. Vote taken, approved unanimously, 5-0. Motion carried.

### **XX. COUNCIL COMMENTS**

Mayor Mathews noticed one of our local restaurants, Bullfrogz, is now opened for breakfast. Also, the runoff elections will be held next Tuesday. Sample ballots are available from the reception area at City Hall and he encouraged everyone to get out there and vote.

Councilmember Welsh said she attended the Old Kennesaw Reunion last weekend and there were at least 125 people. It was awesome!

Councilmember Killingsworth announced that last year Dr. Bruce Gillette submitted an application for the Rose Garden at Smith-Gilbert Gardens to be listed as an American Rose Society Public and Private Garden. The July/August issue of the American Rose, the magazine of The American Rose Society, stated the Smith-Gilbert Gardens is one of nine gardens in Georgia listed in the 2010 Guide to U.S. Gardens. Congratulations to the Gardens and a big thank you to Dr. Gillette.

Councilmember Jenkins reminded everyone the kids are going back to school this week and to be mindful of the traffic.

**XXI. EXECUTIVE SESSION-Land, Legal, Personnel**

- A. Pursuant to the provisions of O.C.G.A. §50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney as provided under O.C.G.A. §50-14-2(1); and/or personnel matters as provided under O.C.G.A §50-14-3(6) and/or real estate matters as provided under O.C.G.A. §50-14-3.

No items.

**XXII. ADJOURN**

Mayor Mathews adjourned at 7:08 p.m. until the next regularly scheduled meeting to be held Monday, August 16, 2010, at 6:30 p.m. in the Council Chambers. The public is encouraged to attend.

*Debra Taylor*

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Debra Taylor, City Clerk