

Mayor
Derek Easterling
City Manager
Jeff Drobney, ICMA-CM
City Clerk
Lea Alvarez, CMC



Council
Mayor Pro-Tem, Tracey Viars
James Eaton
Pat Ferris
Chris Henderson
Nimesh Patel

**City Council
Work Session Meeting Agenda
September 13, 2021 6:30 PM
Council Chambers**

I. INVOCATION

II. PLEDGE OF ALLEGIANCE

III. CALL TO ORDER

IV. ANNOUNCEMENTS

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed.

Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>

V. PRESENTATIONS

- A. A presentation of a check from the Swift-Cantrell Foundation.

The Swift-Cantrell Foundation is presenting the City of Kennesaw with a check for \$10,817.00. The money is being used to help fund repairs to the skatepark at Swift-Cantrell.

N/A

VI. PUBLIC COMMENT/BUSINESS FROM THE FLOOR

VII. OLD BUSINESS

VIII. NEW BUSINESS

- A. Approval of RESOLUTION authorizing the Mayor to sign a boundary line agreement between Boone Center, LLC and the City of Kennesaw.

On July 14, 2021, Croy Engineering completed a boundary retracement survey for the Kennesaw City Cemetery. The results showed the surveyor for Boone Center, LLC, whose tract of land is described in Exhibit A, made an error between the property lines owned by Boone Center, LLC and the City, whose

tract of land is described in Exhibit B. This agreement explains how both parties desire to establish the location of a common boundary line between their respective properties. It also constitutes the accurate dividing line between the properties of the parties. This agreement has been reviewed by legal and the City Clerk recommends approval.

IX. COMMITTEE AND BOARD REPORTS

X. PUBLIC HEARING(S)

Swearing-in of any witnesses or individuals offering comments on any of the following items.

- A. **FINAL PUBLIC HEARING:** Consideration of RESOLUTION to adopt the Fiscal Year 2021-2022 Operating Budget for the City of Kennesaw and adopt the organizational chart.

In accordance with Section 4.02 and 4.03 of the City Charter and Section 2-144 of the City Code of Ordinances, this budget is hereby submitted for approval. The budget meets all of the filing requirements as well as public hearing requirements as required by the Charter and Code. The updated organization charts are attached. The first, second and third advertisements in the Marietta Daily Journal were on August 27, 2021, September 3, 2021, and September 10, 2021, respectively. The budget meets the balanced budget requirements as set forth by the City, State and other regulatory agencies. Finance Director recommends approval.

- B. **FINAL PUBLIC HEARING:** Consideration of RESOLUTION to adopt the FY 2021-2022 Capital Improvement (SPLOST) Budget for the City of Kennesaw.

In accordance with Section 4.06 of the City Charter and Section 2-144 of the City Code of Ordinances, this budget is hereby submitted for approval. This budget meets all of the filing requirements as well as public hearing requirements as required by the Charter and Code. The first, second and third advertisements in the Marietta Daily Journal were on August 27, 2021, September 3, 2021, and September 10, 2021, respectively. The budget meets the balanced budget requirements as set forth by the City, State and other regulatory agencies. Finance Director recommends approval.

- C. Approval of an ORDINANCE to amend the Code of Ordinances, Kennesaw, Georgia, Chapter 6 "Alcoholic Beverages," Article II "Licenses," Section 6-47 "City official, spouse, children prohibited from interest in license."

This ordinance amends the Code Of Ordinances, Kennesaw, Georgia, Chapter 6 "Alcoholic Beverages," Article II "Licenses," Section 6-47 "City official, spouse, children prohibited from interest in license" by deleting the current Section 6-47 in its entirety and replacing that section with the following: Sec. 6-47. – Reserved. City Clerk recommends approval.

- D. Authorization for approval of an ORDINANCE granting a rezoning request

submitted by Related Development, LLC for the properties located at 1650 N Cobb Parkway, 1810 Old 41 Highway and 1810 Old 41 Highway. Case #RZ2021-03.

Properties identified as 1650 N Cobb Parkway, 1810 Old 41 Highway (parcel number 20020700050) and 1810 Old 41 Highway (parcel number 20020702270). Applicant is seeking to annex one parcel and rezone three parcels as follows: 1650 N Cobb Parkway from County Mobile Home Park (MHP) to City Planned Village Community (PVC), 1810 Old 41 Highway (parcel number 20020700050) from City General Commercial (GC) to City PVC and 1810 Old 41 Highway (parcel number 20020702270) from City Office/Institutional (OI) to City PVC. Properties consist of a total of 32.73 +/- acres lying in land lot 207 tax parcels 05, 222, and 227, 20th District, 2nd Section, Cobb County, Georgia. Said request is Phase II of the overall master plan of Kennesaw Marketplace and will incorporate 332 multi-family residential units and 63 single-family attached (townhome) units. Development will provide trails and pedestrian access to Kennesaw Marketplace, the Noonday Creek trail system as well as Kennesaw Mountain National Battlefield Park. Application was advertised in the Marietta Daily Journal on July 16 and 23, 2021, and a public notice sign has been posted on-site. At their September 1, 2021 meeting, the Planning Commission recommended to approve the rezoning request in accordance with the stipulation letter of July 29, 2021 and also in accordance with the progressive action of the developer to continue to assist the residents of that property. STAFF RECOMMENDATION: Zoning Administrator, Darryl Simmons, recommends approval with conditions as in accordance with the stipulation letter dated July 29, 2021 received from attorney Garvis Sams.

- E. Authorization for approval of an ORDINANCE granting an annexation request submitted by Related Development, LLC for the property located at 1650 N Cobb Parkway. Case #AX2021-03.

Property identified as 1650 N Cobb Parkway. Applicant seeking to annex and rezone subject property from County Mobile Home Park (MHP) to City Planned Village Community (PVC). Said request to annex/rezone is for the purpose of building 332 multi-family residential units and 63 single-family attached units (townhomes). Property consists of 31.12 +/- acres and lying in land lot 207 tax parcel 222. Application was advertised in the Marietta Daily Journal on August 13 and 20, 2021, and a public notice sign has been posted on-site. At their September 1, 2021 meeting, the Planning Commission recommended approval of the annexation request. STAFF RECOMMENDATION: Zoning Administrator Darryl Simmons recommends approval of the annexation request.

- F. Authorization for approval of an ORDINANCE granting a rezoning request submitted by City of Kennesaw for the property located at 1880 Old 41 Highway. Case #RZ2021-04.

Property identified as 1880 Old 41 Highway. Applicant is seeking to annex and rezone parcel from County General Commercial (GC) to City General Commercial (GC). Property consists of 1.072 +/- acres and lying in Land Lot 207 and Tax Parcel 4, 20th District, 2nd Section, Cobb County, Georgia. Said request is to annex property under the 60% method per O.C.G.A. 36-36-32 and

to satisfy O.C.G.A. 36-36-4, which states that the creation of an unincorporated island is prohibited. Application was advertised in the Marietta Daily Journal on August 13 and 20, 2021, and a public notice sign has been posted on-site. At their September 1, 2021 meeting, the Planning Commission recommended approval of the rezoning request. STAFF RECOMMENDATION: Zoning Administrator Darryl Simmons recommends approval of the rezoning request.

- G. Authorization for approval of an ORDINANCE granting an annexation request submitted by the City of Kennesaw for the property located at 1880 Old 41 Highway. Case #AX2021-04.

Property identified as 1880 Old 41 Highway. Applicant seeking to annex and rezone subject property from County General Commercial (GC) to City General Commercial (GC). Said request to annex/rezone is for the purpose to avoid creating an unincorporated island per the Official Code of Georgia Annotated (O.C.G.A.) 36-36-4 and using the 60% annexation method per O.C.G.A. 36-36-32 concurrently. Property consists of 1.072 +/- acres and lying in land lot 207 and tax parcel 4. Application was advertised in the Marietta Daily Journal on August 13 and 20, 2021, and a public notice sign has been posted on-site. At their September 1, 2021 meeting, the Planning Commission recommended approval of the annexation request. STAFF RECOMMENDATION: Zoning Administrator Darryl Simmons recommends approval of the annexation request.

XI. CONSENT AGENDA

- A. Approval of the August 30, 2021 Mayor and Council work session minutes.
- B. Approval of the September 7, 2021 Mayor and Council meeting minutes.
- C. On September 7, 2021, Thomas and Mary Shaw purchased one (1) cemetery lot in the Kennesaw City Cemetery. This lot is located in Section III, Plot 35, Lot B. Authorize the Mayor to sign the supporting deed for the purchase of the lot. City Clerk recommends approval.

DEPARTMENT REPORTS

XII. GENERAL AND ADMINISTRATIVE

GINA AULD, Finance Director

- A. Consideration for approval of an Alcohol License for Liquor, Beer, Wine, and Sunday Sales for BCS Restaurant Ventures IV, LLC dba Gus's Fried Chicken located at 2825 South Main Street, Suite 100-A, Kennesaw, GA 30144.
Applicant: Shannon A. Brown

The licensee has completed the required alcohol workshop per Sec. 6-69. Signs have been posted, and it has been properly advertised per Sec. 6-36. Current application, background check, and fingerprint results are on file. Sec. 6-43 refers

to all locations within 600 feet of a public park. This location is within 600 feet of Depot Park. Sec. 6-6 states the distance requirements set forth in sections 6-42 and 6-43 shall not apply to establishment license to sell or serve alcohol within an entertainment district. This location is in the downtown entertainment district. Finance Director recommends approval.

100.0000.32.1100 Application Fee \$350.00

- B. Consideration for approval of a Liquor, Beer, Wine, and Sunday Sales Package License for BWJ Group LLC d/b/a Kings Liquor located at 2600 Cobb Parkway, Kennesaw, GA 30152.

The applicant has completed the required alcohol workshop as per Sec. 6-69. Signs have been posted and it have been properly advertised as per Sec. 6-36. Current application, background check, and fingerprint results are on file. Sec. 6-43 refers to all locations within 600 feet of a public park. The location is 360 feet of Camp McDonald Park. Sec. 6-43 states the Mayor and Council may waive the distance requirement if satisfactory evidence shall be produced that no adverse effect to property values or the use of the facilities for the aforesaid purposes would occur if a license was granted. Finance Director recommends approval.

100.0000.32.1100 Application Fee \$350.00

- C. Consideration for approval of a Beer, Wine, and Sunday Sales Package License for Samina Realty Inc. d/b/a Jiles Food Mart to be located at 2730 Jiles Road, Kennesaw, GA 30144. Applicant: Hyder Lalani

The applicant has completed the required alcohol workshop per Sec-69. Signs have been posted and it has been properly advertised per Sec. 6-36. Current application, background check, and fingerprint results are on file. Sec. 6-42 refers to all locations within 300 feet of a private residence. This location is within 300 feet of a private residence. Sec. 6-42 states the Mayor and Council may waive the distance requirement if the quite enjoyment of the premises by the residents thereof shall not be adversely affected and the granting of such license shall not have any adverse effect on the private residence. Sec. 6-43 refers to all locations within 600 feet of a religious assembly. This located is within 600 feet of Masjid Suffah. Sec 6-43 states the Mayor and Council may waive the distance requirement if satisfactory evidence shall be produced that no adverse effect to property values or the use of the facilities for the aforesaid purposes would occur if a license was granted. As noted on the application this application/location is for new construction. Finance Director recommends approval.

100.0000.32.1100 Application Fee \$350.00

XIII. PUBLIC SAFETY

BILL WESTENBERGER, Police Chief
RYAN SOLIS, 911 Communications Director

XIV. INFORMATION TECHNOLOGY

RICK ARNOLD, Operations Specialist
JOSHUA GUERRERO, Systems Administration Specialist

XV. PUBLIC WORKS

RICKY STEWART, Public Works Director
ROBBIE BALENGER, Facilities Manager

XVI. RECREATION AND CULTURE

RICHARD BANZ, Museum Director
STEVE ROBERTS, Parks and Recreation Director
ANN PARSONS, Smith-Gilbert Gardens Director

XVII. COMMUNITY DEVELOPMENT

LUKE HOWE, Economic Development Director
DARRYL SIMMONS, Zoning Administrator
SCOTT BANKS, Building Official

- A. Final plat application submitted by Sanctuary Development, LLC for 2985 and 3007 Cherokee Street. This plat depicts Phase 1 of the proposed Galt Commons mixed-use "agri-community" subdivision.

This final plat is for Phase 1 of 2, includes a total of 42 lots and will contain 40 single-family lots and 2 commercial lots. All parcels are zoned Central Business District (CBD) and are located within the Cherokee Street Historic District. A CBD Project Approval Application went before Mayor and Council on November 5, 2018 and was approved with conditions as stated in the meeting minutes. Additionally, a CBD Project Approval Application amendment went before Mayor and Council on August 3, 2020 and was approved with conditions as stated in the meeting minutes. The Plan Review Committee reviewed the final plat for compliance and recommends approval. STAFF RECOMMENDATION: The Zoning Administrator Darryl Simmons recommends approval of the final plat.

- B. Approval of RESOLUTION to ratify and approve values established by independent appraisals of (1) Chalker Park off Poplar Drive, including Tax Parcel I.D. No. 20009900790 off Rock Springs Drive, and (2) an approximate 1.4-acre tract near the intersection of Smith Drive and Cherokee Street, being part of the property at 3371 Cherokee Street (Tax Parcel I.D. No. 20009901150).

The City, pursuant to the Joint Development Agreement and Amendments between Sanctuary Development, LLC, Salt Kennesaw Properties, LLC and East Park JV, LLC, proposes to exchange the Chalker Park property off Poplar Drive, including the segment identified as Tax Parcel I.D. No. 20009900790 off Rock Springs Drive, for an approximate 1.4-acre tract presently owned by East Park JV, LLC ("East Park") and situated near the intersection of Smith Drive and Cherokee Street. The Cherokee Street property is part of a larger tract owned by East Park and located at 3371 Cherokee Street. O.C.G.A. § 36-37-6 (c) requires that the proper authorities of the City first approve the values of the respective properties as determined by appraisals. The City engaged Larry Singleton, Jr., Certified General Appraiser, to ascertain the value of and prepare an appraisal of each property. Mr. Singleton determined the value of the Chalker Park property, including Tax Parcel I.D. No. 20009900790, to be \$411,100.00. Mr. Singleton determined the value of the Cherokee Street property to be \$417,600.00. The

appraisals have been provided to the Mayor and Council under separate cover for review. The Economic Development Director recommends that the Mayor and Council approve the values ascertained by Mr. Singleton and included in his appraisals for the Chalker Park and Cherokee Street properties.

- C. Approval of RESOLUTION to authorize the exchange of Chalker Park off Poplar Drive, including Tax Parcel I.D. No. 20009900790 off Rock Springs Drive, for a 1.4-acre tract near the intersection of Smith Drive and Cherokee Street, being part of the property at 3371 Cherokee Street (Tax Parcel I.D. No. 20009901150).

The City, pursuant to the Joint Development Agreement and Amendments (collectively "JDA") between the City and Sanctuary Development, LLC, Salt Kennesaw Properties, LLC and East Park JV, LLC, proposes to exchange the Chalker Park property off Poplar Drive, including the segment identified as Tax Parcel I.D. No. 20009900790 off Rock Springs Drive for an approximate 1.4-acre tract presently owned by East Park JV, LLC ("East Park") and situated near the intersection of Smith Drive and Cherokee Street. The Cherokee Street property is part of a larger tract owned by East Park and located at 3371 Cherokee Street. Chalker Park is described in Exhibits A, B and C attached to the Resolution, and the Cherokee Street property is shown on and described in Exhibits D and E attached to the Resolution. The City will develop the Cherokee Street property as a park in accordance with the provisions of the JDA. O.C.G.A. § 36-37-6 (c) authorizes the exchange of municipally owned property for other property so long as the other property is of greater or equal value to the municipally owned property. The independent appraisals obtained by the City for the Chalker Park and Cherokee Street properties establish that the Cherokee Street property to be acquired by the City through the exchange is of greater value than the Chalker park property. The Mayor and Council have approved the values determined in these appraisals. In addition, public notice of the proposed exchange must be advertised once a week for four consecutive weeks during the six weeks preceding the exchange or closing on the exchange of properties. The public notice of the proposed exchange will be advertised in the Marietta Daily Journal for four consecutive Fridays beginning on September 10 and concluding on October 1. A copy of the public notice is attached as Exhibit F to the Resolution. The City previously abandoned the public use of the Chalker Park property in July, 2021. The Economic Development Director recommends approval of the property exchange with East Park JV, LLC pursuant to the terms of this Agenda item and the Resolution and attached Exhibits.

- D. Approval of RESOLUTION to abandon Right of Way for Poplar Drive directly adjacent to Chalker Park in Land Lot 99, 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia.

The City previously received a request from the Sanctuary Companies (Sanctuary Development, LLC, Salt Kennesaw Properties, LLC and East Park JV, LLC) for right of way abandonment for sections of Poplar Drive, Russell Drive, Grant Drive, and Rocksprings Drive. In accordance with Georgia law, O.C.G.A § 32-7-2 (c), the City, in April, 2021, abandoned these public rights of way after determining that these sections of the City street system had ceased to be used by the public to the extent that no substantial public purpose was served

by them and that their removal from the City street system was otherwise in the best public interest. The City did not, however, abandon the small segment of Poplar Drive directly adjacent to Chalker Park since the City, at the time, still owned the Park property. This segment of Poplar Drive is described in Exhibits 1 and 2. Since the City has already abandoned the streets and right of way adjacent to this segment of Poplar Drive, it is no longer used to any measurable extent by the public and no longer serves a substantial public purpose. The City has also abandoned the public use of Chalker Park and proposes to exchange the Park property for other property near the intersection of Smith Drive and Cherokee Street. This small segment of Poplar Drive right of way is no longer needed to access the Park property and its removal from the City street system is otherwise in the best public interest. The Public Works Department has determined that the abandonment of this section of Poplar Drive, described in Exhibits 1 and 2, meets both standards. In addition, the City also has received and will receive the required right of way and property interests needed for the Cherokee Street Improvement Project from the Sanctuary Companies and related entities (Sanctuary Development, LLC, Salt Kennesaw Properties, LLC and East Park JV, LLC). In exchange for the Cherokee Street rights of way, the Sanctuary Companies, on behalf of themselves and VCP Kennesaw, LLC, VCP Kennesaw II, LLC, VCP Kennesaw ASR, LLC, VCP Kennesaw CAR, LLC and VCP Kennesaw 133, LLC, seek this abandoned section of Poplar Drive adjacent to Chalker Park. The value of this segment of Poplar Drive right of way when combined with the value of the previously abandoned sections of Poplar Drive, Russell Drive, Grant Drive, and Rocksprings Drive is less than the Cherokee Street right of way and interests. The rights of way and property interests needed from Sanctuary for the Cherokee Street Project are shown in blue on Exhibit 3. The values of the properties involved in the exchange are based on an appraisal prepared by Singleton Real Estate dated May 25, 2018 and are shown in Exhibit 4. In accordance with Georgia law, O.C.G.A. § 32-3-3, the City is authorized to exchange this segment of Poplar Drive right of way for privately owned property needed for transportation improvement projects if the City receives equal or greater value in the exchange. Based on the appraisal, the City will receive a greater value for the Cherokee Street right of way and property interests than the Sanctuary Companies and VCP entities will for the segment of Poplar Drive right of way and other abandoned segments of Poplar Drive, Russell Drive, Grant Drive, and Rocksprings Drive. The Economic Development Director recommends approval of the resolution to abandon and exchange the section of Poplar Drive adjacent to Chalker Park described in Exhibits 1 and 2.

XVIII. PUBLIC COMMENT/BUSINESS FROM THE FLOOR

XIX. CITY MANAGER'S REPORT (Jeff Drobney)

- A. City Manager reports, discussions and updates.

XX. MAYOR'S REPORT

- A. Mayor and Council (re)appointments to Boards and Commissions. This item is for (re)appointments made by the Mayor to any Board, Committees, Authority or Commission requiring an appointment to fill any vacancies, resignations, and to

create or dissolve committees, as deemed necessary.

XXI. COUNCIL COMMENTS

XXII. EXECUTIVE SESSION - Land, Legal, Personnel

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; and/or personnel matters; and/or real estate matters

XXIII. ADJOURN