



CITY OF MILTON, GEORGIA

Joe Lockwood, Mayor

CITY COUNCIL

Karen Thurman
Julie Zahner Bailey
Bill Lusk
Burt Hewitt
Tina D'Aversa
Alan Tart

Monday, October 20, 2008

ACTION MINUTES

6:00 PM

- 1) **CALL TO ORDER**
- 2) **ROLL CALL**
- 3) **PLEDGE OF ALLEGIANCE**
- (Agenda Item No. 08-695)
- 4) **APPROVAL OF MEETING AGENDA**

Staff recommended the following changes to the Meeting Agenda:

1. Under the Consent Agenda; remove Approval of the October 13, 2008 Work Session Minutes until November 3, 2008.
2. Under First Presentation; add a first reading for Approval of an Ordinance establishing Noise Control within the City of Milton.
3. Under New Business; add a Resolution of the Mayor and City Council of the City of Milton Georgia in support of November 4, 2008 Atlanta Fulton Public Library system Bond referendum.
4. Add a Resolution appointing Mortimer L. Smedley as Interim City Manager.
5. Add an Executive Session to discuss potential land acquisition.

Motion and Vote: Councilmember Lusk moved to approve the Meeting Agenda as modified and as read with the exception, the Resolution for the support of November 4, 2008 Atlanta Fulton Public Library system Bond referendum based on Council vote affirming that a vote on the Resolution is appropriate. Councilmember Thurman seconded the motion. The motion passed 5-2, with Councilmember Zahner Bailey and Councilmember Tart opposed.

- 5) **PUBLIC COMMENT**
- 6) **CONSENT AGENDA**

Page 1 of 6

Milton City Hall
City Council Chambers
13000 Deerfield Parkway, Suite E
Milton, GA 30004

Persons needing special accommodations in order to participate in any City meeting should call 678-242-2500.

(Agenda Item No. 08-696)

1. Approval of the Financial Statements for the period ending August 2008.

(Agenda Item No. 08-697)

2. Approval of the October 6, 2008 Regular Meeting Minutes.

(Agenda Item No. 08-698) Removed by Motion and Vote

3. Approval of the October 13, 2008 Work Session Minutes.

Motion and Vote: Councilmember Hewitt moved to approve the Consent Agenda, as amended. Councilmember D'Aversa seconded the motion. The motion passed unanimously.

7) REPORTS AND PRESENTATIONS**8) FIRST PRESENTATION****9) PUBLIC HEARING****ALCOHOL BEVERAGE LICENSE APPLICATIONS****(Agenda Item No. 08-699)**

1. Approval of Alcohol Beverage License Application for Brooklyn Joe's One, Inc., d/b/a Brooklyn Joe's Pizza, Pasta and Grill at 13065 Highway 9 N, Suite 110, Milton, Georgia. The applicant is G. Brian Miller for Consumption on Premises – Wine and Malt Beverage.

Motion and Vote: Councilmember D'Aversa moved to approve Alcohol Beverage License Application for Brooklyn Joe's One, Inc., d/b/a Brooklyn Joe's Pizza, Pasta and Grill at 13065 Highway 9 N, Suite 110, Milton, Georgia. The applicant is G. Brian Miller for Consumption on Premises – Wine and Malt Beverage. Councilmember Tart seconded the motion. The motion passed unanimously.

(Agenda Item No. 08-700)

2. Approval of Alcohol Beverage License Application for Nan's Sushi, LLC d/b/a Nana's Sushi at 13020 Morris Road, Suite J, Milton, Georgia. The applicant is Kyong McLean for Consumption on Premises – Wine and Malt Beverage.

Motion and Vote: Councilmember Hewitt moved to approve Alcohol Beverage License Application for Nan's Sushi, LLC d/b/a Nana's Sushi at 13020 Morris Road, Suite J, Milton, Georgia. The applicant is Kyong McLean for Consumption on Premises – Wine and Malt Beverage. Councilmember Thurman seconded the motion. The motion passed unanimously.

(Agenda Item No. 08-701)

3. Approval of Alcohol Beverage License Application for Elegant Food Services, LLC d/b/a Elegant Food Service at 13020 Morris Road, Milton, Georgia. The applicant is Arash Mosaeli and Alireza Hafezi for Wine and Malt Beverage.

Motion and Vote: Councilmember Thurman moved to approve Alcohol Beverage License Application for Elegant Food Services, LLC d/b/a Elegant Food Service at 13020 Morris Road, Milton, Georgia. The applicant is Arash Mosaeli and Alireza Hafezi for Wine and Malt Beverage. Councilmember Zahner Bailey seconded the motion. The motion passed unanimously.

END OF PUBLIC HEARINGS

10) ZONING AGENDA

(Agenda Item No. 08-683)

1. **ZM08-06/VC08-05** - 765 and 785 Mid Broadwell Road, To modify Condition 2.a. and 4.b.of RZ03-140 (ZM06-011 NFC), to modify the site plan and to remove the requirement that the owner dedicate to Fulton County (City of Milton) the necessary right-of-way to provide a connector road from Broadwell Road to Mid Broadwell Road prior to attaining an LDP, or as may be approved by the Director of Public Works. The applicant is also requesting a concurrent variance to reduce parking from 58 to 39 spaces (Article 18 Section 2.1).

Motion and Vote: Councilmember Thurman moved to defer until January 19, 2009, **ZM08-06/VC08-05** - 765 and 785 Mid Broadwell Road, To modify Condition 2.a. and 4.b.of RZ03-140 (ZM06-011 NFC), to modify the site plan and to remove the requirement that the owner dedicate to Fulton County (City of Milton) the necessary right-of-way to provide a connector road from Broadwell Road to Mid Broadwell Road prior to attaining an LDP, or as may be approved by the Director of Public Works. The applicant is also requesting a concurrent variance to reduce parking from 58 to 39 spaces (Article 18 Section 2.1). Councilmember D'Aversa seconded the motion. The motion passed 6-0-1, with Mayor Lockwood recused.

Point of Order:

City Attorney Jarrard:

The issue came up with respect to an emergency item. The rules define an emergency situation as follows: An emergency situation is defined as a sudden unforeseen happening which requires immediate action to correct or to protect lives and/or property.

The item we were discussing was a Resolution pertaining to a bond. There is another agenda item which is a noise ordinance which may also be implicated with respect to the seven day rule. We may need to revisit the motion to place the noise ordinance on the agenda and the Resolution involving the bond on the agenda. Council could suspend the rules and the items on the agenda. To suspend the rules requires unanimity.

Motion to Reconsider and Vote: Councilmember D'Aversa moved to reconsider the Resolution of the Mayor and City Council of the City of Milton Georgia in support of November 4, 2008 Atlanta Fulton Public Library system Bond referendum, and Approval of an Ordinance establishing Noise Control within the City of Milton. Councilmember Lusk seconded the motion. The motion passed unanimously.

Motion to Suspend the Rules and Vote: Councilmember Thurman moved to suspend the rules and add a Resolution of the Mayor and City Council of the City of Milton Georgia in support of November 4, 2008 Atlanta Fulton Public Library system Bond referendum and Approval of an Ordinance establishing Noise Control within the City of Milton. Councilmember Lusk seconded the motion. The motion failed by a vote 6-1, with Councilmember Zahner Bailey opposed.

(Agenda Item No. 08-684)

2. **ZM08-07** - 12659 Itaska Walk, To modify Condition 3.a. of RZ03-156 to reduce the side set back from 10 ft. to 4 ft along the north property line and to reduce the rear set back from 20 ft. to 8 ft.

Motion and Vote: Councilmember Hewitt moved to approve **ZM08-07** - 12659 Itaska Walk, To modify Condition 3.a. of RZ03-156 to reduce the side set back from 10 ft. to 4 ft for lot along the north property line and to reduce the rear set back from 20 ft. to 8 ft. Councilmember Lusk seconded the motion. The motion passed 6-1 with Councilmember Tart opposed.

The meeting recessed at 7:35 p.m.

RECONVENE

Motion and Vote: Councilmember Hewitt moved to reconvene the meeting at 7:40 p.m. Mayor Lockwood seconded the motion. The motion passed unanimously 5-0-2. (Councilmember Lusk and Councilmember Tart were not present for the vote.)

11) UNFINISHED BUSINESS

(Agenda Item No. 08-686)

1. Approval of an Ordinance to Amend Chapter 6 of the Code of Ordinances of the City of Milton, To Establish the Code of Ethics for the City of Milton; To further and Incorporate the Policies and Laws of the State of Georgia Relating to Ethical Standards; To Create the Board of Ethics and Provide for Board Membership, Duties, and Responsibilities; To Provide for the Disposition of Ethics Complaints; to Ensure Compliance With Ethical Standards; To Repeal Conflicting Provisions; to Provide for Severability; to Provide for an Effective Date; and for other Purposes.

ORDINANCE NO. 08-10-28

Motion and Vote: Councilmember Zahner Bailey moved to approve an Ordinance to Amend Chapter 6 of the Code of Ordinances of the City of Milton, To Establish the Code of Ethics for the City of Milton; To further and Incorporate the Policies and Laws of the State of Georgia Relating to Ethical Standards; To Create the Board of Ethics and Provide for Board Membership, Duties, and Responsibilities; To Provide for the Disposition of Ethics Complaints; to Ensure Compliance With Ethical Standards; To Repeal Conflicting Provisions; to Provide for Severability; to Provide for an Effective Date; and for other Purposes with two amendments: 1) Article 4, Section 10 to insert; may participate, before the phrase that says shall abide by the

Page 4 of 6

Milton City Hall
City Council Chambers
13000 Deerfield Parkway, Suite E
Milton, GA 30004

Persons needing special accommodations in order to participate in any City meeting should call 678-242-2500.

rules and procedures; and 2) On page 8, Section 5, replace in the heading the word County with “City”. Councilmember D’Aversa seconded the motion. The motion passed 4-3, with Mayor Lockwood, Councilmember Lusk, and Councilmember Hewitt opposed.

12) NEW BUSINESS

(Agenda Item No. 08-702)

1. Approval of a contract between the City of Milton and Latta Enterprises for ADA Consulting for professional services.

Motion and Vote: Councilmember D’Aversa moved to approve a contract between the City of Milton and Latta Enterprises for ADA Consulting for professional services. Councilmember Tart seconded the motion. The motion passed unanimously.

(Agenda Item No. 08-703)

2. Consideration of the Baker settlement agreement.

Motion and Vote: Councilmember Thurman moved to approve the Baker settlement agreement. Councilmember Lusk seconded the motion. The motion passed unanimously.

(Agenda Item No. 08-704)

3. Approval of three multi-year zero-dollar professional Service Agreements for on-call planning and engineering services with Kimley-Horn, Street Smarts, and URS”

Motion and Vote: Councilmember Hewitt moved to approve three multi-year zero-dollar professional Service Agreements for on-call planning and engineering services with Kimley-Horn, Street Smarts, and URS”. Councilmember Thurman seconded the motion. The motion passed unanimously.

Motion and Vote: Councilmember Lusk moved to reconsider adding a Resolution Appointing Mortimer L. Smedley as Interim City Manager. Councilmember Hewitt seconded the motion. The motion passed unanimously.

Motion to Suspend the Rules and Vote: Councilmember Lusk moved to suspend the rules and add a Resolution Appointing Mortimer L. Smedley as Interim City Manager. Councilmember Hewitt seconded the motion. The motion passed unanimously.

Added by Motion and Vote

Approval of a Resolution Appointing Mortimer L. Smedley as Interim City Manager.

RESOLUTION NO. 08-10-47

Motion and Vote: Councilmember Lusk moved to approve a Resolution Appointing Mortimer L. Smedley as Interim City Manager. Councilmember Thurman seconded the motion. The motion passed unanimously.

13) MAYOR AND COUNCIL REPORTS

Page 5 of 6

Milton City Hall
City Council Chambers
13000 Deerfield Parkway, Suite E
Milton, GA 30004

Persons needing special accommodations in order to participate in any City meeting should call 678-242-2500.

14) STAFF REPORTS

Added by Motion and Vote

15) EXECUTIVE SESSION

Motion and Vote: Councilmember Lusk moved to adjourn into Executive Session at 8:33 p.m. Councilmember Hewitt seconded the motion. The motion passed unanimously.

RECONVENE

Motion and Vote: Councilmember Hewitt moved to reconvene the Regular Meeting at 8:46 p.m. Councilmember Lusk seconded the motion. The motion passed unanimously.

(Agenda Item No. 08-705)

16) ADJOURNMENT

Motion and Vote: Councilmember Hewitt moved to adjourn the Regular Meeting at 8:47 p.m. Councilmember D'Aversa seconded the motion. The motion passed unanimously.