

COUNCIL PRESENT: Dunagan, Wangemann, Hamrick, Figueras, Bruner
STAFF PRESENT: Padgett, Sheppard, Palmour, Felts, Ligon, Jordan, Grayson

Mayor Dunagan called the meeting to order.

Howard Rodham, Church of Jesus Christ of Latter Day Saints, delivered the invocation after which the Pledge of Allegiance was recited in unison.

OATH OF OFFICE:

City Manager Kip Padgett administered the Oath of Office to Fire Chief Jerome Yarbrough and pinned the Fire Chief Badge on him. Chief Yarbrough extended appreciation to several individuals/organizations and pledged his commitment to lead the finest Fire Department in the State. Council extended words of appreciation.

Several citizens from the audience expressed their pleasure with the decision.

CONSENT AGENDA:

Alcoholic Beverage License Applications:

- A. El Ranchito Mexican Restaurant, 1830 Atlanta Hwy, Ste B
New application for consumption on the premises of beer.
- B. Golden Palace Restaurant, 2283 Thompson Bridge Rd.
New application for consumption on the premises of beer and wine.

Motion to approve the applications as presented.

Motion made by Council Member Figueras
Motion seconded by Council Member Bruner
Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

Pawnshop License Application
Gainesville Jewelry, 1020 Jesse Jewell Parkway (New application)

Motion to approve the application as presented.

Motion made by Council Member Wangemann
Motion seconded by Council Member Figueras
Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

Resolutions:

- A. PR-2013-02 Cargill Sanitary Sewer Improvements – Phase I Award of Contract

Motion to adopt the resolution as presented.

Motion made by Council Member Hamrick
Motion seconded by Council Member Wangemann

Upon inquiry, it was noted this project would offer conformity of the stormwater detention and pathway around the Public Safety Complex. Also, Public Utilities Director Kelly Randall shared the intent of the project.

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

Minutes:

A. February 19, 2013 Council Meeting

Motion to approve the minutes accepting the edits as presented.

Motion made by Council Member Bruner

Motion seconded by Council Member Figueras

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

APPOINTMENTS:

Gainesville Redevelopment Authority

Position currently held by Mike Whitmire

Motion to appoint Mark Bell to fill the unexpired term of Mike Whitmire on the Gainesville Redevelopment Authority.

Motion made by Council Member Bruner

Motion seconded by Council Member Figueras

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

Gainesville Redevelopment Authority

Position currently held by Jim Moore

Motion to appoint Kris Nordholz to serve on the Gainesville Redevelopment Authority with a term expiration date of July 31, 2016.

Motion made by Council Member Hamrick

Motion seconded by Council Member Bruner

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

Gainesville Redevelopment Authority

Position currently held by Martha Randolph

Motion to reappoint Martha Randolph to serve on the Gainesville Redevelopment Authority with a term expiration date of July 31, 2016.

Motion made by Council Member Figueras

Motion seconded by Council Member Bruner

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

Municipal Court Deputy Solicitor
Position currently held by David Purvis

Motion to appoint Anne Marie Bishop to fill the unexpired term of David Purvis as the Municipal Court Deputy Solicitor.

Motion made by Council Member Bruner

Motion seconded by Council Member Figueras

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

GENERAL LEGISLATION

Second Reading: Ordinance No. 2013-01
Amend Chapter 6-19 entitled "Atmos Energy Corporation"

Motion to hold second reading on Ordinance 2013-01, AN ORDINANCE TO AMEND CHAPTER 6-19 ENTITLED "ATMOS ENERGY CORPORATION, KENTUCKY/MID-STATE DIVISION" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE, GEORGIA; TO APPROVE THE ASSIGNMENT OF THE GAS FRANCHISE FROM ATMOS ENERGY CORPORATION, KENTUCKY/MID-STATE DIVISION TO LIBERTY ENERGY (GEORGIA) CORPORATION, PURSUANT TO GAINESVILLE MUNICIPAL CODE 6-19-10(c); TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Motion made by Council Member Figueras

Motion seconded by Council Member Bruner

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

Second Reading: Ordinance No. 2013-02
Amend Chapter 9-20-4 entitled "Structures Dangerous to Public Health"

Motion to hold second reading on Ordinance 2013-02, AN ORDINANCE TO AMEND CHAPTER 9-20-4 ENTITLED "STRUCTURES DANGEROUS TO PUBLIC HEALTH" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE, GEORGIA; TO AMEND SECTION 9-20-4-10 TO PROVIDE FOR INJUNCTIONS AGAINST AN ORDER OF A PUBLIC OFFICER TO REPAIR, CLOSE OR DEMOLISH UNFIT BUILDINGS OR STRUCTURES; TO ADD SECTION 9-20-4-11 TO PROVIDE THAT NO PROVISION IN THIS CHAPTER SHALL BE CONSTRUED AS PREVENTING THE TAKING OF UNFIT BUILDINGS OR STRUCTURES BY EMINENT DOMAIN; TO ADD SECTION 9-20-4-12 TO PROVIDE FOR THE USE OF REVENUES, GRANTS AND DONATIONS TO REPAIR OR DEMOLISH UNFIT BUILDINGS OR STRUCTURES; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Motion made by Council Member Wangemann

Motion seconded by Council Member Bruner

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

PUBLIC HEARING:

Annexation/Zoning Items

City Attorney Palmour confirmed the items had been properly advertised and reviewed the guidelines for the public hearing.

Request from America's Home Place, Inc. to rezone a 25.11± acres tract located on the east side of Dawsonville Highway across from Beechwood Boulevard, having road frontage along Ahaluna Drive and Lakeshore Circle (a/k/a 0 and 1198 Dawsonville Highway; 1162 Lakeshore Circle and 1232 Ahaluna Drive) from Residential-I (R-I), Residential-II (R-II) and Office and Institutional (O-I) to General Business (G-B). Ward Number: One. Tax Parcel Number(s): 01-114-001-002A; 01-115-001-006 (Part), 007B (Part) and 055 (Part). Request: Commercial shopping center

Community Development Director Rusty Ligon presented the application. The Planning and Appeals Board approved the application with eleven conditions as noted below.

1. The exterior materials of the proposed shopping center buildings shall be generally consistent with the architectural rendering submitted with the application and shall conform with the Gateway Corridor Overlay Zone standards.
2. The rear of the proposed buildings shall consist of earth tone colors as to blend in with the vegetated landscape.
3. A minimum 100-foot wide buffer shall be provided between the rear of the commercial shopping center buildings and the adjacent residential properties located within the Lakeshore Heights Subdivision. The first 35-feet of the buffer adjacent to the residential properties shall remain undisturbed. All trees/shrubs planted within the buffer area shall be maintained by the developer and/or property owner.
 - In addition, three staggered rows of evergreen trees shall be planted *both* at the top of the slope closest to the proposed buildings/rear access drive and at the lower slope elevation adjacent to the undisturbed buffer areas. These trees shall be a minimum installation height of 8 feet and may consist of a mixture of Arborvitae Green Giant, Wax Myrtle, Leyland Cypress and/or Japanese Cryptomeria trees.
 - All cut and fill slopes and detention pond areas visible from the adjacent residential properties, Lakeshore Circle and Ahaluna Drive shall be stabilized with weeping love grass. In addition, these areas shall be planted with a mixture of hardwoods and evergreen trees at a minimum installation height of 8 feet as to present a finished appearance from the adjacent residential properties. The type, location and number of trees shall be subject to the approval of the Community Development Department Director.
4. A minimum 8-foot high black vinyl coated security fence shall be installed between the rear of the proposed buildings/access drive and the planted buffer area located at the top of the cut and fill slope.
5. All lighting within the development shall be positioned or screened as to not create direct glare on the adjacent residential properties. The outdoor lighting shall meet the standards as required within Chapter 9-3-4 of the Gainesville Unified Land Development Code.
6. Any service areas including dumpster pad areas and loading docks area shall be sufficiently screened from all public roads and adjacent residential properties and shall meet the standards as required within Section 9-3-3-3 of the Gainesville Unified Land Development Code.

7. An automotive paint and body repair shop or auto sales facility is not an approved use for the subject property. There shall be no junk vehicles or vehicles used for parts stored on the subject property.
8. There shall be no vehicular access allowed from the proposed development to the adjacent Lakeshore Heights Neighborhood, excluding authorized utility vehicles.
9. The applicant shall reevaluate with the Georgia Department of Transportation (GDOT) and the City of Gainesville Public Works Director, the need for a traffic signal at the median break on Dawsonville Highway in front of the subject property and the private road between the Olive Garden and Cheddar's restaurants. Any new road improvements required by the Gainesville Public Works Director and GDOT for the development of this property shall be the financial responsibility of the applicant/developer.
10. A uniform sign plan shall be provided for the entire development as described in Section 9-18-2-7 of the Gainesville Unified Land Development Code.
11. An updated as-built boundary survey/plat of the subject property, indicating existing conditions and all improvements shall be recorded prior to obtaining a Certificate of Occupancy for the proposed use.

Planning Manager Matt Tate spent a considerable amount of time summarizing the conditions. He indicated the Planning and Appeals Board amended a few of them during their meeting.

City Attorney Palmour opened the floor for comments.

APPLICANT:

Jim Walters, 311 Green Street, represented the applicant. He distributed a Constitutional Consideration and Objections to the Council, City Manager and City Attorney. He commented on previous projects he had presented to the Council then stated the proposal at hand had been reviewed and approved by the Planning Staff. The applicant agreed to all of the conditions to protect adjoining property owners. Mr. Walters stated the applicant has seen the letter from the Home Owners Association and the applicant feels that they have more than complied with the requests of the homeowners by agreeing to meet all the conditions and providing buffers above and beyond what has ever been required. The application complies with the Master Plan of the City. He commented on the land noting it was rough land that has been undeveloped for sixty years. He felt the only real use for the property was commercial development. Mr. Walters stated the Council has discretion on this matter and the applicant believes he has a right to use the property subject to reasonable conditions. There was a meeting at Trinity Baptist Church with the neighborhood to explain the proposed project. Mr. Walters commented on some of the conditions as well as distances between buildings and residences. He also commented on two detention ponds included in the project to protect surrounding properties. Mr. Walters stated the development will directly create 500 new jobs and more jobs afterwards. Tax revenue was projected to be \$5 million per year. It will be a cash generator with most of the funds going to the school system which desperately needs the funding. Mr. Walters expressed his desire to have retailers come to Gainesville. This was a good development that was highly regulated by staff. It was totally buffered. He asked Council for favorable consideration of this request.

FAVOR:

Tim Evans, Greater Hall Chamber of Commerce, 230 EE Butler Parkway, resident of Hall County, stated the proposed development would be similar to the McEver Corners development (Kohl's and other stores) which was across the highway. This corridor is the biggest retail center in this area. The developer has produced quality retail projects thus far. He felt the proposed development would have a positive impact on the surrounding properties. He closed by stating the project impacts the business community as a whole and has economic impacts that will benefit the city as well as lower the tax burden for all residents.

OPPOSE:

The City Attorney asked those opposing the request to stand. Approximately 50 responded.

Michael Proulx, 1260 Lakeshore Circle indicated he was the President of the Lakeshore Heights Homeowner's Association. He stated the packet of information delivered earlier today represented the concerns of the homeowner's association. He used a power point presentation to supplement his statements. He commented on the purpose of the detention ponds. He thanked Council for the new tree plantings then asked Council to reject the application based on the following points:

1. The development is too big for the site.
2. It's wrong to place an aggressive commercial zoning against a conservative zoning district.
3. This is not compatible with the 2030 Comprehensive Plan's goals and objectives.
4. Residents don't want this type of development.

Mr. Proulx felt there was a use for the property but it wasn't this type development in city neighborhoods. Citizens felt the best use for this property was open area mixed use.

Pat Horgan, Lakemont Drive, stated he has lived at his location for 29 days. He commented on why he moved to Gainesville and indicated the real estate agent told him the surrounding area had R-I zoning. He became very concerned when he found out about the rezoning application. He came from Dunwoody, Georgia which, during his time there, grew from a small residential community to a retail community. He felt the end result of this growth wasn't expected. He commented on experiences and urged the Council to think about the future and character of this city as well as what happens when you change neighborhoods into commercial enterprises.

Reba Ruth, 1311 Lakeshore Circle, stated she hoped to protect the value of the homes in Lakeshore Heights. She felt the development was too close to the neighborhood and was undesirable. She asked the Council to consider downsizing the development. She suggested 100 to 125 feet as an appropriate distance from the development to the homes. She felt the Council held the value of their homes and property in their hands.

Wendy Anderson Martin, 1025 Lakeshore Drive, stood with her husband, Robin Martin. She stated they have paid their city taxes. She commented on living in Lakeshore Heights most of her life. She served on the Clermont City Council for a while and learned the following: (1) people's homes are their life, (2) the homeowner always knows more about their property than anyone else, and (3) the heart of the community is its people. She commented on purchasing the most expensive home during her lifetime in Lakeshore Heights in a protected R-I zoning. She commented on adversities they had overcome noting they thought they had already

experienced the worst. She shared a few bad experiences. Mrs. Martin stated the oversized development will place a giant retention pond within 35 feet of her home. She asked about the City's responsibility to protect its residents and their investments. She commented on having to live with the developers dream if the Council approves this request. She respectfully asked for further thought and consideration of the size and impact of this development.

Bill Williams, 1151 Lakeshore Drive, stated he purchased his home in 2007. Its value has significantly decreased due to the economic downturn which was unforeseen. The development is something you can see and will have an adverse effect on the value of his home. He was not opposed to placing a properly sized shopping center on the land. He was opposed to forcing the land to hold a Big Box Shopping Center of the proposed size. He believed this was forcing something that didn't fit. He asked Council to protect his family, to protect the residents of Lakeshore Heights and to protect the citizens of Gainesville by telling the developer to revise and resize the development. The fact that they are so close to some of the homes proves the development is too large for the land.

Upon inquiry, Planning Manager Matt Tate commented on the buffer between the development property line and the private property.

Rachel Bemby, 1063 Lakeshore Drive, commented on the 35 foot buffer. She stated the proposed development threatens her quality of life, her family, her investment and her community. It's the Planning staff's objective to find developments and they have tried to find middle ground. She felt the Council's role was to represent the citizens and the citizen say they don't want big box development. She disagreed with some statements made by Mr. Walters. She felt the development was too big for the site. She suggested other options, i.e., something that adds value not dollars. Mrs. Bemby stated her calculations indicated the City would gain \$215,000 and asked if the development was worth this. Voting in favor of this development sends a message that their homes are not valuable. She stated a petition opposing the development had been signed by approximately 200 individuals. She asked those in opposition to stand again. Mrs. Bemby asked Council to revise and resize the plan.

Glenda Pierce, Sunset Boulevard, stated she lives in the area where the Best Buy Store is in her backyard. She stated there were problems since the development. She felt the proposed development would affect the neighborhood no matter what the developer says. It will also affect the value of the entire neighborhood.

Robin Martin commented on the size of the detention pond being larger than an Olympic swimming pool. No one would want this in their back yard. He asked Council to do the right thing.

Upon inquiry, there was some discussion addressing the size of the detention pond and its distance from residential properties.

Council Member Figueras commented on cleanup efforts made in the Beechwood area in the last few weeks. She asked if the developers would police themselves instead of waiting until someone reports a problem.

Linda Hawkins, 1445 Lakeshore Circle, stated she had been watching the detention pond located at the Olive Garden for four months and it has held water the entire time. She was adamant the developer would not do what he was supposed to do because he hadn't proven himself with the prior development. She asked Council to be realistic and realize the development was too big for the property.

REBUTTAL:

Mr. Walters commented on the distance from the development to property lines. He asked for approval subject to the conditions submitted by staff.

City Attorney Palmour closed the hearing and returned the matter to the Council for a decision.

Council Member Wangemann asked Keith Brown, who represents the developer, if there was an alternative development to consider. The neighborhood is aware a development will be placed in this area. He wondered if there would be consideration of a downsized development to satisfy the developer and the neighborhood.

Mr. Brown commented on the need for a specific square footage to make the project doable. Financially, a smaller plan would not work. The site is rough and needs a lot of work to make it usable.

Motion to hold first reading on Ordinance 2013-03, AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY CHANGING THE ZONING ON A 25.11± ACRES PARCEL LOCATED ON THE EAST SIDE OF DAWSONVILLE HIGHWAY ACROSS FROM BEECHWOOD AVENUE, HAVING ROAD FRONTAGE ALONG AHALUNA DRIVE AND LAKESHORE CIRCLE (A/K/A 0 AND 1198 DAWSONVILLE HIGHWAY; 1162 LAKESHORE CIRCLE; AND 1232 AHALUNA DRIVE) FROM RESIDENTIAL-I (R-I), RESIDENTIAL-II (R-II) AND OFFICE AND INSTITUTIONAL (O-I) TO GENERAL BUSINESS, WITH CONDITIONS (G-B-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (Amendment to Zoning Map)

Motion made by Council Member Bruner

Motion seconded by Council Member Wangemann

DISCUSSION:

Council Member Wangemann felt the developer had protection for the neighborhood and the key was accountability. Staff would be checking the area and the citizens were encouraged to report problems. Based on what he heard, the water drainage problem would be improved.

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

EXECUTIVE SESSION:

City Manager Kip Padgett requested an Executive Session to discuss litigation matters.

Motion to close the Council Meeting and to enter an Executive Session to discuss litigation matters at 7:27 PM.

Motion made by Council Member Wangemann

Motion seconded by Council Member Figueras

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

COUNCIL PRESENT: Dunagan, Wangemann, Hamrick, Figueras, Bruner
STAFF PRESENT: Padgett, Sheppard, Palmour, Ligon, Jordan

Motion to close the Executive Session and to continue the Council Meeting at 7:48 PM.

Motion made by Council Member Wangemann
Motion seconded by Council Member Bruner

Votes favoring the motion: Dunagan, Wangemann, Hamrick, Figueras, Bruner

OTHER BUSINESS:

Council Member Figueras announced the Second Saturday Meeting would occur this weekend at the Fair Street Neighborhood Center at 9:30 AM. She commented on the topics of discussion.

ADJOURNMENT: 7:49 PM

DJ/ag

C. Danny Dunagan, Mayor

Denise O. Jordan, City Clerk