

**MINUTES**  
**CLARKSTON CITY COUNCIL**  
Tuesday, March 1, 2011, 7:00 PM

Officials Present

Mayor:	Emanuel Ransom
Council:	Warren Hadlock, Dianne Leonetti, Dean Moore, Joan Swaney, Jean Brown (Adam White-Absent)
City Clerk:	Tracy Ashby
City Attorney:	Stephen Quinn

Mayor Ransom called the meeting to order at 7:00pm.

Invocation given by Reverend Mincey

The Pledge of Allegiance

**Approval of Council Minutes**

The minutes from the February 1, 2011 Council meeting were before Council for approval. Ms. Swaney moved to approve the minutes. Ms. Leonetti seconded the motion. Mayor Ransom opened the floor for discussion. Mayor noted that with the correction on the minutes to add Council Woman Jean Brown. **A vote was called and the motion carried.** (5/0)

**CITIZENS COMMENTS AND CONCERNS**

Tracy Bishop, 1050 Neilsen Drive sent the council members an email on what we have previously discussed and how they are still getting mud/silt from English Oaks direction when it rains. Mr. Bishop spoke with Mr. Scotty Key (McEachern Dredging) and the elimination of the energy diffusers which were in the 2007 survey to reduce the cost of the lake project. Vice-Mayor Hadlock pointed out that the County will supply free rock, but, Mr. Bishop is concerned with the proper placement; The Lake Assoc. will be happy to do this with proper guidance. Mr. Bishop also touched on the drainage ditch between 1020 and 1026, recent pipe bursting on Texel, proposing getting additional rock/gravel and handling garbage coming in from English Oaks.

Chris Busing, Mauck Street, took a picture of the sign that states only cited people can be in the court room because of limited seating and stating he felt it was a violation of the sixth amendment. Mr. Busing spoke on a law course he is presently attending on mortgage lending fraud and how the new Attorney General of Georgia has recognized this group and their work. He gave remedies to keep the tax base up.

**NEW BUSINESS**

**City Attorney Contract**

Bryan Downs spoke briefly on past service and the team approach that they have taken to provide support to the council and the Mayor. Mr. Downs would like to have Stephen Quinn recognized formally as the City Attorney where he and the rest of the firm will continue to be involved and whenever needed. Mayor Ransom wanted to acknowledge the excellent support and legal advice from our City Attorney. Mr. Moore made the motion that Stephen Quinn will be the City Attorney. Ms. Leonetti seconded the motion. Mayor Ransom opened the floor for discussion. **A vote was held and the motion carried.** (5/0). Mayor Ransom congratulated Mr. Quinn on becoming a new father.

**Public Hearing – 4312/4320 E Ponce de Leon Ave. Subdivision and Rezoning**

Michelle Alexander with Pond & Co. gave an overview of the project. This is a simultaneous request to rezone from NR-3 to RC and to approve the associated sketch plat which is required as a first step for a subdivision

process. Ms. Alexander would like to formally submit the staff report into the public record. The application would create three parcels: tract 1 - .38 acre parcel along the frontage of E. Ponce de Leon at the corner of West Smith Street proposed to be rezoned RC; tract 2 - .36 acre parcel adjacent at the 4320 E Ponce de Leon to be rezoned RC; and a new tract 3 – 1.3 acre parcel to remain NR3 in the rear of the site. The proposed use is for the existing building at 4312 E. Ponce de Leon to be used as real estate office. The site information is in total 2.3 acres of all the parcels being taken under consideration which is currently occupied by two single family residential units along E. Ponce de Leon and the rear is heavily wooded and undeveloped on the site and is bounded by E. Ponce de Leon to the S.E., West Smith Street to the S.W. You have before you the surrounding zoning districts recorded for you and the surrounding land uses to the North its zoned NR-3 and NR-CD and to the South is an NR-3 and an NC-1 that is across from E Ponce de Leon Avenue, the East is NC-3 across from E. Ponce de Leon and to the West is NR-3. The future development map that is in your comprehensive plan indicates for this area neighborhood redevelopment and we did not have prior history for this parcel. The proposed access is to access West Smith Street for all three properties. In total two curb cuts one for the residential tract in the rear and a proposed share access for tracts 1 & 2. Ms. Alexander explained the analysis and why she is reading all of this is because the zoning law requires that if you consider a zoning consideration you specify the parts of the code that are addressed and the criteria that you are allowed to use to consider a rezoning. 1) Relationship with your comprehensive plan and your future development map shows slated for neighborhood redevelopment that is the character envisioned by the future development map. The proposed project associated with this rezoning request appears to align with the uses intended within the neighborhood redevelopment character area although improvements would need to be made in order to achieve the design intent as described by the comprehensive plan statement. a) Opportunities in this area to combine lots and increase density without compromising existing infrastructure. The area should be redeveloped in a manner to include neighborhood parks, sidewalks, traffic, and County improvements and well designed small commercial activity centers within walking distance of the homes. This parcel falls within one of two concepts that are drawn in the comprehensive plan that identifies areas for future redevelopment (see attachment one in packets). The proposed zoning aligns with the stated concept by maintaining frontage along E Ponce de Leon for a mixed use project multi-family or limited commercial use. This is a limited commercial use that is being requested and is suggested by the concept in our Comprehensive plan. The request to rezone does not, however, include some well designed small activity center but it does provide for adaptive reuse of existing structures. Pond evaluated if it was consistent with the zoning ordinance. The request to rezone a portion of the property subject to RC will allow the existing building to be used as a stand-alone real estate office separate from a home occupation. The applicant intends to use the existing buildings without any additions or modifications; the parcel as proposed for NR-3 is vacant but the lot size allows it to develop in the manner it can comply with the zoning ordinance for the district. A zoning compliance review will be required prior to any development on the proposed new lot. The sketch platte shows tracts 1 & 2 that are proposed for rezoning to RC that they comply with the zoning district in general except for the following: 1) The RC zoning district requires plantings will be needed in the required buffer between the RC and the NR-3 district to establish the attempt of a vegetated screening between those two uses (the plans show the dimension of the buffer which is correct but we would still need to see plantings there for it to fully comply. 2) There is a requirement for sidewalk in a landscape zone along E Ponce de Leon to meet streetscapes standards in our zoning code. The sidewalk shown on the plans along with Smith Street is proposed by the applicant as an improvement when the lot is actually developed and the dimensions comply with the requirements of our codes although it is not proposed to be provided until such time as that lot is to be developed and a zoning review would be required at that time. Regarding the sidewalk requirements along E Ponce de Leon the city would need to consider its policy on this aspect since there already exists a five foot sidewalk and a three foot landscape zone. There exists a steep grade change that would require investment of backfill to allow the dimensions as required by the City's zoning ordinance. If no building permit or curb cut is requested along E Ponce de Leon the Council may or may not wish to request enforcing this at a later phase of redevelopment for this particular site adjacent to E Ponce de Leon. The criteria established in Article 3, Section 305 of the City of Clarkston zoning ordinance. Pond & Co. reviewed the rezoning request. 1) How it relates to the affect upon health, safety & morals and general welfare

and the assessment indicates the impact on the general welfare of the public should be minimal if the rezoning was limited to office use. Should the rezoning be denied the property is disadvantaged in that new residential occupancy is not as likely as a commercial occupancy along E Ponce de Leon and while tract 1 has a potential viable use as residential as a corner lot, tract 2 the adjacent lot was platted with no direct street access and has reduced viability given the lack of direct street accessibility to a public street. The assessment is the general welfare is served by recombining the parcels in a way as demonstrated by the sketch plat and it follows the vision described in the comprehensive plan and creates an improved access and shared parking amenity for those existing parcels. Criteria two is whether the zoning proposal will permit a use that is suitable in view of the use and development of surrounding and nearby property the assessment states that creating a new large residential lot between the proposed commercial use and existing single family residential as a limited commercial use such as office would be suitable. Criteria three relates to if the zoning proposal would adversely affect the existing use or usability or adjacent property and the assessment is that it does not appear the zoning proposal would not adversely affect existing use or viability any new traffic generated would be confined to the portion of West Smith Street. Criteria four regarding the economic use is currently zoned; this was addressed in the first assessment with a similar response. Criteria five whether the zoning proposal will result in a use that may cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. The assessment is that the schools would have negligible impact, there would not be any intense traffic volume; utilities and environment there would be some stormwater runoff increases with the expansion impervious surface and this will have some impact but only minor increase at this site and stormwater capacity does not appear to be an issue and regarding public safety there does not impact although public sidewalks is important for this area. Criteria six economics have changed since the City's comprehensive plan and the slow economy has changed the viable full redevelopment of these two structures. The applicants proposed replanting does follow the potential to meet the vision still for the comprehensive plan. Criteria seven shows proposed zoning is compatible with the long range plan for future development map. Criteria eight also has to do with the zoning proposal being compatible with the future development map in this assessment. Criteria nine this isn't applicable the applicant does not have a variance simultaneous with the application. Pond & Co. has six conditions that the applicant would have to come back to the City with when they pull a building permit (list given to each council member to look over). P & Z also looked at some additional conditions. The first condition would prohibit certain uses for example no taxi stands. Applicant would have to provide a partial sidewalk along West Smith Street along with the rezoning when they plat it. A water main would have to be taken into consideration with engineering for the configuration of the sidewalk. The applicant was in agreement to provide a sidewalk to its first curb cut up to the first drive. The applicant will need to lift the existing gravel and provide landscaping and submit a landscape plan when they come in to do the improved parking and the required drive. The issue of a specimen tree: Pond's recommendation that they widen their drive and the applicant worked with Pond on plans to comply with the rules. Pond recommends widening the drive to have a two way egress and ingress. This would mean sacrificing the tree. Pond stated that the applicant get a professional assessment from an arborist and urban forester to assess the life span of the tree, the condition of the tree and health of the tree. Mayor Ransom opened up for the public hearing and for all in favor of the rezoning to come up and speak. Theodros Hailegiosgis is in favor of this and that it fits the vision of Clarkston. Chris Busing asked if the house would be torn down. It will not be torn down. Bobby Wright of P & Z stated after much discussion that there will be a lot of investment in this property but after receiving Pond's recommendation they went ahead with the approval. Mr. Nune the owner of the property felt this would benefit the city and even add employment opportunities in the future. Tracy Bishop is not against this rezoning but would like to be able to save the tree. Mayor Ransom asked all in favor and all opposed to this rezoning. None opposed. The public hearing was closed. Discussion was now opened for the Council. Mr. Moore had questions on septic/sewerage, the drive and the landscaping and stormwater run-off into Friendship Forest. Mr. Nune's response was that if any building is done in the future that he would have a sewer line connection. Michelle with Pond said to consider additional condition with the Health Board Review. Mr. Hadlock also mentioned the stormwater run-off and a retention field. Michelle said that when doing improvements of paving to have hydrology required to analyze stormwater. Ms. Alexander said Pond would get a third party arborist to

evaluate the tree issue. Mayor Ransom closed the public hearing. Mr. Moore would like to recommend that this rezoning of the property be allowed with conditions stipulated that the driveway in this property to be impervious material and if we are allowed to use a flag lot design for that third curb cut so that house does not become landlocked and that there be a Health Department study on the septic tanks to make sure they remain intact until such time when he hooks up to a sewer line and the P&Z recommendations/conditions as well. Ms. Brown seconded the motion. **A vote was held and the motion carried. (5/0)**

#### **Dan Cohen Report D.O.T. Parking Lot/ Streetscape**

Mr. Cohen stated that we will need to remove the right of way in the parking lot. D.O.T. will check on the preliminary engineering Monday because their documents are still showing the \$100,000 on their part is still there. Mr. Cohen will check on the easements on the property. The city will have to petition the Atlanta Regional Commission to move the project back one year because it was due to be done in fiscal year 2011 (2012 fiscal starts in July). Need to come up with a schedule and when it can be let by D.O.T. Will have to have DeKalb County do the letting of the project.

#### **Update Finance Software**

Mayor Ransom explained that the current software is out of date for our administrative offices. We have a proposal from RDA for the software upgrade. Council members discussed the cost and services/support from RDA. Funds could come out of the land sale money and this is the first money removed from the funds from the land sale. Ms. Swaney made a motion to approve the investment into this new from RDA. Mr. Moore seconded the motion.

**A vote was held and the motion carried. (5/0)**

#### **Lease Agreement – United Methodist Church**

Mayor Ransom, before giving the floor to City Attorney Stephen Quinn, explained that the church and the city had an agreement that they would let us park in their parking lot across the street at no cost and that we would use the barter system. So what the city is going to do is lease the lot for \$600.00 a year which is the annual sanitation fee from the city for the church. Mr. Quinn felt it would be better idea to have a contract to pay the church \$600.00 for rent per year and the church will pay \$600.00 per year for sanitation and the contract will renew automatically each year until it is cancelled either by the church or the city and it is non-exclusive. Would recommend the vote of the council authorizing to pay \$600.00 to lease the space for overflow parking subject to the City Attorney and the Mayor negotiating any finer details that the church may want to change but doesn't change the cost to the city. Mr. Hadlock made a motion to approve the contract upon the churches approval. Ms. Leonetti seconded the motion.

**A vote was held and the motion carried. (4/1 Ms. Swaney abstained)**

#### **Women's Club Roof**

Mr. Moore made a motion to approve the contract with Deluxe Roofing. Mr. Hadlock seconded the motion. **A vote was called and the motion carried. (5/0)**

#### **Discussion to hold two Council Meetings per month**

Mayor Ransom thought maybe one in the evening and one early afternoon because of all the projects going on at this time. Discussion by council members maybe having more notice if this was to happen (a special call meeting) or if information given at the time of the Council Meeting is more detailed it might not be necessary to add extra meeting.

#### **Planning and Zoning Report**

Mr. Wright stated that everything was covered in the earlier part of the public meeting and the only issue was 4312/4320 and anticipates that the next meeting will be the presentation by the Dollar General. Meeting schedule for P&Z given to the receptionist.

## Correspondence

Received a card from Rosemarie Nelson thanking Mayor Ransom and Code Enforcement Officer Sheppard for meeting with the members of the Clarkston Business Association.

Received a letter regarding Seniors Connections concerning Meals on Wheels campaign on March 23<sup>rd</sup>.

## Old Business

**Public Hearing** – Proposed ordinance to amend the zoning ordinance, the sign ordinance and other portions of the City Code to eliminate the Planning and Development Commission and to rename the Zoning and Review Commission the Planning and Zoning Board. (2nd<sup>t</sup> Read).

Mr. Quinn (City Attorney) did the 2nd read and is a package of five amendments to the code and of five different chapters of the code and it is for the purpose of replacing Planning and Development Commission and the Zoning and Review Commission with the Planning and Zoning Board, (amend chapter 11, chapter 15, chapter 15.5, chapter 17 and appendix A). Mayor Ransom opened for a Public Hearing on this ordinance. Favor – none Opposed – none Public Hearing is closed.

Mr. Moore made the motion to vote on all five at one time and move forward. Ms. Swaney seconded the motion. **A vote was called and the motion carried. (5/0)**. Ms. Leonetti made a motion to accept all five. Ms. Brown seconded the motion. **A vote was called and the motion carried. (5/0)** Mr. Quinn explained that we may or may not elect to appoint a City Planner and Pond has been acting as our City Planner. Mr. Moore made a motion to designate Pond & Co. as City Planner on an annual basis. Ms. Brown seconded the motion. **A vote was called and the motion carried. (5/0)**

## Pool Contract for Milam Pool Project/Project Manager

Mr. Quinn stated that Leslie provide an AIA contract which was submitted. We sent a memo hitting the high points. We need to have the contractor execute the immigration and security affidavits. They need to provide us with payment bond and performance bonds. The city needs to take out a builders risk insurance policy and get a copy of a certificate of insurance that Leslie is required to take out under this contract. The total cost proposed is \$867,174.00 includes \$25,500.00 of so called allowances. Mr. Moore would like a discussion. Mr. Hadlock made a motion to open discussion. Ms. Leonetti seconded the motion. Mr. Moore would like to have someone in the profession that would be acting as an architectural advisor or construction manager on this project. Mr. Quinn stated the next step for this project is for Leslie to give us the detailed plans and specifications and at that point is where our project manager will need to be in place to review those and act on the City's behalf. The City Attorney agrees that we need to have a project manager and we need to have a sealed bid out with a RFP. Mr. Moore made a motion to approve the contract pending the approval of a project manager. Mr. Moore amended the motion signing the contract and getting a construction manager for this project and giving the City Attorney and the Mayor to work out the fine points and sign the contract. Ms. Brown seconded the motion. **A vote was called and the motion carried. (5/0)** Mr. Moore made the motion to put out the RFP for a project manager. Ms. Brown seconded the motion. **A vote was called and the motion carried. (5/0)**

## City Property Maintenance Ordinance (2nd Read)

Mr. Quinn did the 2nd read on both the property maintenance and nuisance and this will become effective immediately upon adoption. Ms. Swaney made a motion to adopt the Property Maintenance Ordinance. Ms. Leonetti seconded the motion. **(4/1- Mr. Hadlock abstained)**

## CHIEF OF POLICE REPORT

Capt. Hudson stated that the crime reports are not on the website because of new courtware software for our report writing in the cars and downstairs computers there was a glitch of transferring what the officers take and put into the crime report. We are working with our IT person, crime reports and courtware to fix this problem. Also the 12-hour shifts are in their second month today and getting reports back from the officers that they are

really excited with this shift. Working with DeKalb with some robberies outside the city limits and Det. Clouden is working with DeKalb on this.

Mr. Quinn (City Attorney) drafted a resolution to pass the extra cost onto the offenders. This is a resolution approving the creation of an add-on fee to citations as judicated by the City Clarkston Municipal Court for the purpose of funding necessary technology improvements. Mr. Quinn read the resolution and that is actually in the purview of the Judge of the court to put this into effect and we are making a request to him by passing this resolution. Ms. Leonetti made a motion to approve this resolution. Ms. Swaney seconded the motion. **A vote was called and the motion carried. (5/0)**

## **COUNCIL COMMITTEE REPORTS:**

### **Roads and Drainage**

Ms. Brown has nothing to report.

### **Finance Committee Report**

Mr. Hadlock has nothing to report.

### **Police Affairs Committee Report**

Ms. Swaney informed everyone that tomorrow is, "National Walk to School Day," so the Chief, the Mayor, police department and other volunteers will be walking kids to the Indian Creek Elementary School. The city currently has a van for prisoner transport and would like a motion to sell the van and to declare it surplus and give the Chief authorization to sell it so he can retro fit the new vehicle and these funds will go back into the seizure fund because the van had been purchased with seizure funds. Ms. Brown seconded the motion. **A vote was called and the motion carried. (5/0)** The last thing is a request from the city of Clarkston for a permit for the Peach Blossom Blue Grass Festival which will be held on Saturday, April 2nd. This is a one day request for alcohol permit license to sell beer.

### **Community Activities**

Ms. Leonetti would like to better enhance the website to have more communication. Would like to do an electronic booklet/guide to the city that would not cost a lot of their resources. Improve the outlook of the city.

### **Buildings and Grounds Committee Report**

Mr. Moore commented on the city looking trashy and someone going around and picking up trash and he would like to commend those who have picked up trash. As far as Mr. Bishop's complaint concerning English Oaks may require some volunteer work and some education and pointing out that the storm drain is not a trash bin.

### **Media Committee Report**

Ms. Leonetti has nothing to report but Diane and Warren did meet to go through the communications budget process; auditing it because there is about \$50,000 to \$60,000 we spend on various communication vendors and there has to be a way we can save money in there.

### **Parks and Recreation Committee Report**

Mr. White absent.

### **Sanitation Committee Report**

None

### **Mayor's Report**

The Mayor went to the B.O.C. this past week and they donated a very large vehicle to the police department for vehicle transport and we had the support of the CEO and the Commission. This is a 2003 Ford F450 ambulance and we will convert it into a prisoner transport. Mayor Ransom also went to the farewell party for Christopher Holiday. Avalon on Montreal is approximately 70% finished and is moving along real well and the apartments are beautiful. We toured the complex with Congressman Hank Johnson, Council Man Dean Moore and others. I went to the D.O.T. this morning with Dan Cohen and with the first \$100,000 we have only spent \$6,225 at this time. In February we had the Apple Tree Academy stop by City Hall. I visited with the United Way Committee and went to the Georgia Coalition for Refugee Stockholders. Attended Heritage Dinner on the 17<sup>th</sup> and on the 19<sup>th</sup> the Chin National Celebration and the South Sudanese Celebration. On the 23<sup>rd</sup> I met with the business owners and two want to be future business owners in Clarkston. A developer called me about the property off of Vaughan Street.

Dan went down to the GDOT quarterly reconstruction meeting at the State Capital and I went to the Disabilities Day and met the Governor. I met with the leadership meeting for the B.O.H. they are trying to adopt a nonsmoking ordinance for the County. We went to Stone Mountain to receive our annual check from Georgia Power and it was \$167,000. We also received a reimbursement check for the lake which was \$111,000.

### **City Attorney's Report**

Mr. Quinn received some correspondence from an attorney that could lead to litigation and I recommend that we make a motion to go into Executive Session to briefly discuss this matter.

Mr. Hadlock made the motion to go into Executive Session. Ms. Leonetti seconded the motion.

**A vote was held and the motion carried. (5/0)**

### **Executive Session**

Ms. Swaney made the motion to close the Executive Session. Ms. Leonetti seconded the motion.

**A vote was held and the motion carried. (5/0)**

Mr. Hadlock moved to adjourn the Council meeting and pay Council bills. Ms. Swaney seconded the motion. No discussion followed. **A vote was held and the motion carried. (5/0)**

The meeting adjourned at 9:00 pm.