

Duluth



Nancy Harris, Mayor
Jamin Harkness, Post 1
Marline Thomas, Post 2

Lamar Doss, Post 3
Manfred Graeder, Post 4
Greg Whitlock, Post 5

**AGENDA
MAYOR AND COUNCIL
CITY OF DULUTH, GA
3167 Main Street
Duluth, GA 30096**

JULY 11, 2022

CITY HALL COUNCIL CHAMBERS

6:00 pm

***The leaders and staff of the City of Duluth are dedicated to ensuring that Duluth is:
an Attractive Destination, a Quality Community, a World Class Government,
and promotes a Sustainable Economic Environment.***

5:30 P.M. – AGENDA REVIEW Main St. Conference Room

6:00 P.M. - CALL TO ORDER Mayor Harris or Mayor Pro tem Whitlock

INVOCATION OR MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

I. ANNOUNCEMENTS

1. AGENDA CHANGES (IF NECESSARY)
2. UPCOMING EVENTS – www.duluthga.net/events

Fridays-N-Duluth every Friday May -September, 6pm-9pm. Town Green/Parsons Alley. Duluth is the place to be on Friday night from May through September as food trucks take over Downtown Duluth! Experience exotic flavors in a mobile vending setting with amazing local cuisine while listening to live entertainment on the Festival Center Stage and in Parsons Alley.

PLEASE NOTE: This and other City meetings may be audio and/or videotaped for broadcast, transcription and/or archival purposes. As set forth in the Americans with Disabilities act (ADA) of 1990, the City of Duluth government does not discriminate on the basis of disability in the admission or access to or treatment of employment in its programs or activities, and complies with the requirements contained in section 35.107 of the Department of Justice regulations. All agenda packets may be converted to WCAG 2.0 compatibility format by emailing agenda@duluthga.net. In addition, any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program, or activity of the City of Duluth government should be made seven days prior to the event. Direct inquiries to the ADA Coordinator in the City Clerk office, located at 3167 Main Street, Duluth, GA. 30096, or by telephone at 770.476.3434.

Duluth Farmers & Artisan Market every 2nd Sunday of the month, 2:00-6:00pm. Town Green and Parsons Alley. Our market features vendors who bring in-season, produce, baked goods and other homemade items such as jams, jellies, pickles, salsa, canned vegetables, honey, cut flowers, herbs, spices, homemade candles, soaps, lotions, pottery, baskets etc. Live music, themed photo-ops, and free kids' activities in Parsons Alley.

Connect Duluth, July 19, 6:30pm. Connect Duluth offers you the unique opportunity to sit in the comfort of your own home and talk to your elected officials about the topics that interest you most. Mayor Nancy Harris and Councilmember Manfred Graeder will be joined by special guest Alyssa Gilhooly from the Stormwater Department. We are always accepting conversation starters! If you have a question or comment you wish to have discussed during the next live show, send an email to pio@duluthga.net with Connect Duluth in the subject line. Be sure to tune in via Facebook, Instagram, or YouTube to join in on the conversation!

Summer Stage Concert, July 23, 8 pm. The Evolution of Pop is coming to Town Green! Seating is free but we bet you will be on your feet all night jamming out to your favorite mixtape! The Evolution of Pop will play hits by your favorite artists including Prince, Bruno Mars, Justin Timberlake, Chris Stapleton, Ed Sheeran, Red Hot Chili, Peppers, Stevie Wonder, The Beatles, Justin Bieber, Usher, James Brown, The Jacksons, Michael Jackson, The Weekend, Queen, Maroon 5, The Black-Eyed Pea and more!

Bubblepooza, July 27, 11am. Bring the kids down to Duluth Town Green for this free event to enjoy one of the last days of summer break! We'll have bubbles for the kids to play in along with large yard games and a DJ for entertainment!

II. MATTERS FROM CITIZENS

Maximum of five (5) minutes per person. Sign-up sheet available.

III. CONSENT AGENDA

1. APPROVAL OF JUNE 13, 2022 MINUTES
2. ORDINANCE TO INCREASE MILEAGE REIMBURSEMENT

The Internal Revenue Service recently announced an increase in the optional standard mileage rate for the final 6 months of 2022 in recognition of recent gasoline price increases. Accordingly, approval of this item approves ordinance O2022-23 setting the standard mileage rate for City of Duluth business travel at 62.5 cents per mile, effective July 1, 2022.

3. ASSIGNMENT OF CONTRACT – WOLVERTON TO CHA CONSULTING

In 2019, Wolverton and Associates was acquired by CHA Consulting. As such, their contracts need to be assigned to the new company name. Wolverton currently has one active contract with the City of Duluth, for preconstruction services for the Main Street Enhanced Sidewalk.

The contract has an Assignment Clause allowing the contract to be assigned to the new company providing the City approves that change. As the same staff will be working on the same scope of work from the same office, staff has no objection to the reassignment of the contracts from Wolverton to CHA. Staff is asking for Council approval to allow the Mayor or City Manager to sign off on the attached reassignment document allowing Wolverton (now CHA) to continue their work for the City under this contract.

4. ORDINANCE TO AMEND DULUTH CODE – STORMWATER UTILITY

The City of Duluth has implemented a Stormwater Utility to generate funds that are used to make improvements to the City's Stormwater System. Staff recognizes that the existing system has significant deficiencies that are typical with aging infrastructure. As part of the Stormwater Asset Management & Capital Improvements Program, the City must develop a sustainable funding model that will allow the City to make strategic, timely, and cost-conscious decisions about repairs to the City's stormwater infrastructure.

Approval of this item will approve ordinance O2022-24 to amend Chapter 15 of the Duluth Municipal Code by establishing that one (1) equivalent residential unit (ERU) equals two thousand nine hundred ninety-seven (2,997) square feet of impervious surface area, that the cost of one (1) ERU shall be equal to \$75.00 annually and that a attached single-family residential (ASFR) shall be charged at a rate of 0.5 ERU (\$37.50 annually).

With the proposed funding strategy in place, approval of this Text Amendment will also improve the City's ability to inspect, maintain, repair, and replace man made structural conveyances (pipes, inlets, junction boxes, etc.) in platted, residential subdivisions with recorded easements through an increased Extent of Service and offers a legal process for a resident, property owner, or Homeowners Association to petition the City to hold a public hearing to establish a special assessment district to recoup the City's expenses for repairing a stormwater detention facility in disrepair on private property to its originally design. If approved, the rate changes will take effect immediately and be represented on the 2022 Property Tax bills.

5. ORDINANCE TO AMEND BUDGET – \$300,000 STORMWATER UTILITY

Based on Council approval of the Stormwater Utility Ordinance increasing the charge per 1 Equivalent Residential Unit (2,997 square feet) to an annual fee of \$75.00, staff is requesting approval of a budget amendment (BA-FY23-01) to increase the revenues and expenditures in the Stormwater Utility Fund based on the additional revenue to be generated. Staff estimates Stormwater Utility revenues will increase by approximately \$300,000. Approval of this item approves Ordinance BA-FY23-01 to add \$300,000 in stormwater revenue to the Stormwater Utility - Stormwater Utility Charges 2022 line item and a like amount to Stormwater Utility - Stormwater Collection & Disposal - Repairs and Maintenance Drainage line item.

6. ORDINANCE TO APPOINT DULUTH TAD ADVISORY COMMITTEE

Approval of this item will approve ordinance O2022-25 to re-appoint members of the Tax Allocation District Advisory Committee.

IV. NEW BUSINESS

1. AWARD OF BID – 2022 LMIG FULL DEPTH RECLAMATION/PAVING

The Mayor and Council to consider awarding a bid for 2022 LMIG Full Depth Reclamation and Paving on various City Streets. (Legal notice is attached and run twice in Gwinnett Daily Post as well as placed on the Georgia Procurement website and City website). This project, if approved, will repair and resurface nine streets. Base Streets are: Bennigan Lane, Leprechan Way, Galway Court, Longlake Drive, Longlake Way, Towne Village Drive, Creek Village Court, Stone Village Court, River Village Court.

The City received one (1) bid for this project. Project was bid as a Base Bid and Alternates, each group priced separately. Staff and City Engineers believe receiving only one bid is a result of contractors being overwhelmed with work plus shortages in materials and labor; recently other local governments advertised for work and received no bids.

| Company | Bid |
|------------------|----------------|
| Stewart Brothers | \$2,327,845.90 |

Following a review and analysis of the bid, plus reference checks by Columbia Engineering as well as the City's own experience with Stewart Brothers, recommends awarding the 2022 LMIG Full Depth Reclamation & Paving Project bid (with contingency) to Stewart Brothers, in an amount not to exceed, \$2,560,630.49.

2. ORDINANCE TO AMEND BUDGET - \$2,560,631 – STREET PAVING

Based on Council approval to award the 2022 LMIG Full Depth Reclamation & Paving contract to Stewart Brothers in the amount of \$2,560,630.49, staff is requesting approval of a budget amendment (BA-FY23-02) to add unallocated 2017 SPLOST Transportation fund to the street resurfacing capital project fund (ST-32).

The Mayor and Council are asked to approval ordinance (BA-FY23-02) to add \$2,560,631 in unallocated 2017 SPLOST Transportation funds to the Transportation/Infrastructure Improvements - Paved Streets - Repairs & Maintenance - Streets and Sidewalks line item, including associated transfers.

V. MATTERS FROM DEPT HEADS/CITY ATTORNEY

1. ROGERS BRIDGE – ATT OVERHEAD FIBER

AT&T currently has overhead fiber lines that run along Rogers Bridge Road, into the park, and across the Chattahoochee River where they go underground (on the Fulton County side of the River). To move the lines underground from the Trailhead building to the bridge and across the river will cost about \$100,000. Staff is requesting Council set aside the funding to cover this cost in the event the project budget for local match runs out for PK-33. The City Manager will monitor and report back to Council if necessary. *No motion required at this time.*

2. 5TH ANNUAL COMMUNITY CLEAN-UP DAY

The City of Duluth is proud to announce that the 5th annual Citywide Community Clean-Up Day on June 11th was a tremendous success. The Clean-Up Day is offered as a complementary service to our wonderful residents as part of the Duluth N.O.W (Neighborhood Outreach Work) Program. This is an amnesty dump day accepting several difficult to dispose of items from the residents of Duluth. In addition to collecting an expanded list of disposable materials, the City uses this event as a fantastic opportunity for public outreach to educate residents on the many services offered by the City, assist with code compliance in targeted areas, and obtain MS4 credit from Georgia EPD by reducing the amount of pollutants that may eventually end up on our stormwater system and waterways.

Staff will provide a presentation showing photos of the event, providing statistics on how the event continues to grow in success, and recognize all those that contribute to make this event one-of-a-kind.

VI. MATTERS FROM COUNCIL

VII. MATTERS FROM CITY MANAGER

VIII. EXECUTIVE SESSION

It may be necessary to hold an executive session on Real Estate, Pending/Potential Litigation, or Personnel, which is properly excluded from the Georgia Open and Public Meeting Law (O.C.G.A. 50-14).

IX. ADJOURNMENT

The next scheduled meeting of the Mayor and Council is a tax millage public hearing on July 25th at 10am in the Council chambers, and a second public hearing during the work session on July 25, 2022 at 5:30pm in the City Hall Community Room.



**DRAFT MINUTES OF THE
MAYOR AND COUNCIL
CITY OF DULUTH, GA
JUNE 13, 2022**

PRESENT: Mayor Harris, Council members Harkness, Thomas, Doss, Graeder, and Whitlock, City Manager, Department Directors, City Attorney

A work session was held prior to the regular scheduled meeting to allow the elected officials to discuss this evening's agenda items. No other items were discussed, and no action was taken.

Mayor Harris called the meeting to order at 5:45 p.m.

I. EXECUTIVE SESSION

A motion was made by Councilmember Thomas, seconded by Councilmember Whitlock, to adjourn to executive session at 5:45 p.m.

**Voting for: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

After the discussion, a motion was made by Councilmember Whitlock, seconded by Councilmember Thomas, to return to regular session at 5:55 p.m.

**Voting for: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

II. ANNOUNCEMENTS

1. AGENDA CHANGES (none)
2. UPCOMING EVENTS – www.duluthga.net/events

Fridays-N-Duluth every Friday May -September, 6pm-9pm. Town Green/Parsons Alley.

Duluth Farmers & Artisan Market every 2nd Sunday of the month, 2:00-6:00pm. Town Green and Parsons Alley.

Viva Las Duluth June 25, 2022, 6:00-9:00pm. Town Green and Amphitheater.

III. MATTERS FROM CITIZENS

Rob Chester of 1324 Weatherstone Way, Atlanta, with the office of Congresswoman Carolyn Bordeaux came forward to give an update on the bi-partisan infrastructure spending on roads/bridges. The GDOT and the Treasury are still working on rules for how the funding will be disbursed. Congresswoman Boudreaux' office will continue to provide status updates.

IV. CONSENT AGENDA

1. APPROVAL OF MAY 9 & 23 MINUTES

2. INTERGOVERNMENTAL AGREEMENT – GWINNETT CTY – PINE NEEDLE BRIDGE

{A}

At the March 28, 2022 Council work session, staff provided results of the recent inspection of Pine Needle Drive over Rogers Creek Bridge and the estimated cost of needed repairs. Council authorized moving forward with a scope of work for minor repairs and asked staff to contact Gwinnett County to propose a cost sharing option. The County has agreed to split the cost. Approval of this item approves the Intergovernmental Agreement (IGA) as reviewed by the City Attorney. Bridge repair work is scheduled to begin on June 13.

3. ASSIGNMENT OF EASEMENT – GWINNETT COUNTY – HALL CIRCLE

{B}

At Council's direction, staff moved forward with developing plans for an extension of the sanitary sewer along Hall Circle and Fox Street to tie to the recently installed sanitary sewer by D.R. Horton for the Gardendale development. Before construction, the City acquired a permanent easement at the corner of Fox Street and Hall Circle and now must assign the permanent easement to Gwinnett County. Once the sewer line is installed, the County will be responsible for operations and maintenance.

4. ARPA SEWER PROJECTS–ORD TO AMEND BUDGET -RIGHT OF WAY ACQUISITION

{C}

As discussed previously with Mayor and Council, and as outlined in our executed IGA with Gwinnett County, the ARPA Sewer Projects are to be a joint effort between the City of Duluth and Gwinnett County. The County is well under way with design, and the City is now expected to move forward with land acquisition for the ultimate construction of sanitary sewer in the Pinecrest Neighborhood and the Hill Community. To acquire said right of way and easements, staff is requesting funds be authorized for acquisition costs and for land costs at this time. Staff is requesting the following estimated budget:

| | |
|--------------------------|-------------|
| Acquisition Services: | \$540,000 |
| Acquisition Contingency: | \$135,000 |
| Property Costs: | \$1,500,000 |
| Property contingency: | \$500,000 |
| City Engineer Time: | \$ 25,000 |

Total Budget from ARPA Funds: \$2,700,000. This includes land from approximately 87 properties.

Previously, the City received its first installment of \$5,528,538.50 in ARPA funding from the State of Georgia and established a capital project fund to account for the funds. Staff is requesting \$700,000 in ARPA Funding be added to American Rescue Plan Act 2021 Fund - New Sewer Services - Professional Services line item and \$2,000,000 be added to Infrastructure line item. Approval of this item approves BA-FY22-39 to amend the FY22 budget as presented.

5. ORDINANCE TO AMEND LIST OF ROADS/SPEED ZONES *{D}*

Approval of this item approves ordinance O2022-22 revising the Georgia Department of Transportation/City of Duluth List of Roads (Speed Zone Ordinance #2410-04-22) outlining revised streets, school zones, and speed limits.

6. TITLE VI ANNUAL REPORTING *{E}*

At the April 25, 2022 Council work session, staff reviewed the City's Title VI reporting requirements as well as the City's annual accomplishments. Approval of this item authorizes the Mayor to sign the required documents for staff submission to Georgia Department of Transportation (GDOT) before June 30, 2022.

7. AUTHORIZATION FOR 2022 AD VALOREM – INSOLVENT ACCOUNTS *{F}*

Per Chapter 2, Article 1, Sec 2- 4 of the Duluth Code, approval of this item grants insolvency status to property tax accounts determined to be uncollectible for years up through 2021 in the base amount of \$10,089.78 plus penalties and interest for a total of \$11,725.22. Accounts are considered insolvent only after every effort to collect them has been exhausted, which includes processing late notices, returned mail investigation, cross checks with the Gwinnett County's Tax Assessors' real and personal property tax files, City and County Occupational Tax records, including onsite visits by the Licensing Compliance inspector.

8. BID OPENING FOR RECONSTRUCTION PROJECT – ST2022-01

In May of this year, staff advertised Reconstruction Project ST2022-01 relating to resurfacing of a .04-mile section of roadway. On June 6, the City received two (2) bids from Backbone Infrastructure and Wilson Construction Mgmt. Following a review and analysis of each bid and reference checks by Columbia Engineering, neither bidder provided all requested documentation. Accordingly, staff recommends rejection of all bids as outlined in the bid documents. Approval of this item authorizes the rejection of bids for ST2022-01.

9. AUTHORIZATION FOR PTV USAGE & CO-SPONSORSHIP-DULUTH FALL FESTIVAL

Council previously approved the Personal Transportation Vehicle (PTV) Ordinance, allowing PTV usage on an annual basis by Council. Per the ordinance, PTV usage is permitted only at specified events, and only in specific locations during those events. Staff recommends the following event permit PTV usage as follows:

Fall Festival 2022

Staff recommends this be a "Level I" event whereby the use of PTVs shall be authorized within the area generally bounded by West Lawrenceville Street between Hill and Main Streets, Main Street between West Lawrenceville Street and Davenport Extension, Davenport Extension between Main Street and Hill Street, and Hill Street between Davenport Extension and West Lawrenceville Street. The entire paved length of Ridgway Road is included in this area as well as the parking lots along each of these corridors. Unless Main Street and West Lawrenceville Streets are closed to traffic, PTVs are not permitted on these roads as their speed limit exceeds twenty-five (25) miles per hour. PTVs shall not be authorized to cross S.R. 120/Abbotts Bridge during "Level I" events. Dates of Authorization are September 22, 23, 24, & 25. Furthermore, no passengers other than authorized Fall Festival volunteers are allowed except for vendors who may be transported to the designated passenger van pick up location. No other events are recommended for PTV usage at this time.

Sponsored or Cosponsored Event - Approval of this item also acknowledges that this event is deemed sponsored or cosponsored by the City of Duluth and waives food service requirements per Section 26-2-370 of O.C.G.A., which exempts food vendors from having to obtain said permits provided that the event lasts 120 hours or less. The waiver applies to signage fees and signage location requirements provided that the City Clerk and Public Works Director are given a list of where signs will be erected throughout the City for promotion of the approved event. Fall Festival 2022 is recommended to be a Licensed Merchant Zone which allows alcohol to be purchased from Downtown Licensed Merchants and carried out into the Downtown area.

A motion was made by Councilmember Thomas, seconded by Councilmember Doss, to approve the Consent Agenda as presented.

**Voted For: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

V. PUBLIC HEARINGS

1. ORDINANCE OF SPECIAL USE – SU2022-001 – OZONE EMISSION INC. {G}

Mayor Harris opened the public hearing to consider an application (SU2022-001) from Ozone Emission, Inc. for Special Use approval to operate an emissions facility as an accessory use on a +/- 1.36-acre property operating as a gas station in Land Lot 244 of the 7th District, Gwinnett County, consisting of tax parcel R7244 420. The subject property is located at 2880 Peachtree Industrial Boulevard, Duluth, Georgia 30096.

Planning Director Bill Aiken came forward to present. He stated the intent of a Special Use designation for an Emissions Testing Facility is to ensure that the use, intensity, and number of such facilities be consistent with the surrounding land-uses and future land uses of the area. He provided the history of the site, discussed the Character Area (Peachtree Retail Corridor), and explained why the recommended action was for approval.

It is Staff's opinion that the special circumstances of this site, being the preexistence of an emissions testing bay, provide Duluth with a use necessary to the community while limiting said use's overall impact on the area. This site was developed for the proposed use in mind in 2001. Therefore, the addition of the emissions testing facility will not over burden the existing infrastructure on or near the site.

The request is for approval of Special Use to allow for the operation of an emissions testing facility. In 2001 the gas station and car wash were approved and constructed. The location was closed from 2017 to 2020. In 2021 Peachtree Amoco Gas Station opened. The current zoning does not allow for the proposed development by right. The subject property is located in the Peachtree retail Corridor District. FORWARDuluth envisions the character area to be an attractive and energized retail corridor easily accessed by Duluth residents and non-Duluth residents. FORWARDuluth aspires for redevelopment and reinvestment of older commercial areas within the Peachtree Retail Corridor. Consistent with this aspiration, the property owner has redeveloped a once dilapidated and nuisance property into an operating gas station. The approval of the request would allow the applicant to utilize the last building on the property currently not in use. The Future Land Use Map classifies the subject property as Commercial/Retail/Office. At one point the subject property was an emission testing facility however as time lapsed between 2017 and 2020 it lost the legal non-conforming status.

The Duluth Planning Commission recommended approval of Case SU2022-001 as presented by staff at the April 4, 2022 public hearing. Staff recommends approval of Case SU2022-001 as outlined in ordinance O2022-20 with conditions and as long as the owner meets code compliance and development standards.

Mayor Harris called for discussion from Council. No comments brought forward.

The Mayor asked the applicant if he would like to comment; he declined.

Mayor Harris called for questions or comments from the public. There being none, she closed the public hearing and call for a motion.

A motion was made by Councilmember Harkness, seconded by Councilmember Graeder, to approve ordinance O2022-20 for Case SU2022-001 as presented.

**Voted For: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

2. SECOND PUBLIC HEARING/ORD TO ADOPT THE FY23 BUDGET {H}

The Mayor and Council considered approval of ordinance O2022-21 to adopt the Fiscal Year 2023 Annual Operating and Capital Projects Budget. Per State law, the Mayor and Council to hold public hearings to receive public comments on the proposed FY23 budget. Prior to this public hearing, staff and Council reviewed it at a work session held on April 18, 2022. The first public hearing was held on May 9, 2022 at the Council meeting, as duly noticed and open to the public.

Mayor Harris opened the public hearing and called City Manager James Riker forward to present.

Mr. Riker presented the City's vision statements, summary of the operating budget, revenues, expenditures, and capital projects. The FY23 Capital Reserves show the City in a strong cash position. He noted that revenue drivers do not change much from year to year.

Mr. Riker pointed out the budget changes by department, millage rate history and noted that before 2005, it was actually higher. He highlighted some of the revenues and expenditures.

Mayor Harris called for discussion from Council.

Councilmember Harkness asked what funds would be needed to balance this year's budget. Mr. Riker said it would be hard to estimate, but the potential is to end this year with a surplus of \$2M.

There being no further questions, the Mayor called for questions/comments from the public. Being none, Mayor Harris closed the public hearing and called for a motion.

A motion was made by Councilmember Whitlock, seconded by Councilmember Thomas, to approve Ordinance O2022-21 approving the Fiscal Year 2023 budget as presented.

**Voted For: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

VI. NEW BUSINESS

1. APPROVAL OF INTERGOVERNMENTAL AGREEMENT – 2022 SPLOST {I}

Mayor and Council to consider approving an Intergovernmental Agreement (IGA) with Gwinnett County for use and distribution of proceeds generated by the 2022 Special Purpose Local Option Sales Tax Referendum. The attached IGA is in draft form.

A motion was made by Councilmember Harkness, seconded by Councilmember Whitlock, to authorize Mayor Harris to sign an Intergovernmental Agreement (IGA) with Gwinnett County for use and distribution of proceeds generated by the 2022 Special Purpose Local Option Sales Tax Referendum subject to review and approval of the final agreement by the City Manager and City Attorney.

**Voted For: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

2. APPROVAL OF INTERGOVERNMENTAL AGREEMENT – URA – PARCEL R6293 004

{J, K}

The proposed Intergovernmental Agreement (IGA) transfers .964 acres of tax parcel R6293 004 of real property located on Old Peachtree Road, also identified as 3279 Buford Highway, from the City of Duluth to the City of Duluth Urban Redevelopment Agency (URA). Said property is to be used for the construction of the Davenport Road extension and other redevelopment activities consistent with the adopted Urban Redevelopment Plan and previously approved Intergovernmental Redevelopment Cooperation and Assistance Agreement.

Being no further discussion, Mayor Harris called for a motion.

A motion was made by Councilmember Doss, seconded by Councilmember Graeder, to approve the Intergovernmental Agreement (IGA) transferring .964 acres of tax parcel R6293 004 of real property located on Old Peachtree Road also identified as 3279 Buford Highway from the City of Duluth to the City of Duluth Urban Redevelopment Agency (URA) as presented.

**Voted For: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

VII. MATTERS FROM DEPT HEADS/CITY ATTORNEY

1. ORDINANCE TO AMEND THE FY22 BUDGET - \$16,170 – HVAC REPAIRS {L}

The HVAC in the council chambers recently stopped working. Staff called in our HVAC contractor, Classic Air, to troubleshoot and evaluate the unit. A single unit serves the council chambers exclusively; it has no refrigerant in circuit #1 and is currently only working on circuit #2. The unit is 15 years old and utilizes R-22 refrigerant. Due to the phasing out of this type of refrigerant, it is hard to obtain and extremely expensive.

Staff was given estimates for both repairing and replacing the unit. The repair would cost \$4,010 and is contingent on the contractor finding and being able to repair the source of the leak. If the leak is in the coil, it will require an additional estimate of the repair cost. The replacement cost is \$16,170 and includes a one-year parts and labor warranty and a 5-year compressor parts warranty. The HVAC contractor recommend we replace the unit, based on the age of the unit and the cost to repair.

For this reason, staff is requesting \$16,170 in unallocated 2014 SPLOST Administrative Facilities funds be added to the City Hall Design/Build - General Government Buildings - Buildings line item, including associated transfers.

Being no further discussion, Mayor Harris called for a motion.

A motion was made by Councilmember Whitlock, seconded by Councilmember Harkness, to approve ordinance BA-FY22-38 for HVAC repairs as presented.

**Voted For: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

VIII. MATTERS FROM COUNCIL

Councilmember Whitlock thanked staff for a successful Amnesty "Clean up" Day.

Councilmember Thomas noted that friends who live in downtown Atlanta chose Duluth to hold their wedding. They booked 15 rooms at the hotel and rented out space in a downtown brewery for the rehearsal dinner.

Median landscaping on Peachtree Industrial Blvd. looks very nice.

IX. MATTERS FROM CITY MANAGER

Duluth Public Art Commission received 175 submittals for the Playable Art piece and narrowed down to nine. The Mayor and Council will be review them in July and the award will be placed on the August agenda.

Upgraded pet stations have been installed throughout the downtown

The town green is getting a lot of use, which is causing the green areas to be stressed. Due to construction closing certain areas, wear and tear in other sections has increased.

X. ADJOURNMENT

A motion was made by Councilmember Graeder, seconded by Councilmember Whitlock, to adjourn at 6:35 pm.

**Voting for: Council members Harkness, Thomas, Doss, Graeder, and Whitlock
Motion carried.**

The next scheduled meeting of the Mayor and Council is a work session for July 11, 2022 at 5:30 p.m. There is no work session on June 27 due to the Georgia Municipal Association annual conference.

**ORDINANCE
TO AMEND THE PER DIEM, LODGING, TRAVEL,
CREDIT CARD, AND OTHER EXPENSE MANAGEMENT**

WHEREAS, Section 2-47(2) of the City of Duluth Code of Ordinances authorizes travel reimbursement for employees or officers of the City to coincide with the Internal Revenue Service Guidelines for expenses incurred while attending training, meetings or events for approved city business;

NOW THEREFORE, the City Council of the City of Duluth hereby ordains as follows:

That beginning July 1, 2022, the reimbursement rates shall be 62.5 cents per mile for business use of personal vehicles, and medical mileage for the flexible spending account reimbursement plan shall be calculated at 22 cents per mile.

IT IS SO ORDAINED THIS 11th DAY OF JULY, 2022.

Those councilmembers voting in favor:

Nancy Harris, Mayor

Charles Jamin Harkness, Post 1

Marline Thomas, Post 2

Kenneth Lamar Doss, Post 3

Manfred Graeder, Post 4

Greg Whitlock, Post 5

ATTEST: _____
Teresa S. Lynn, City Clerk



June 27, 2022

Via E-mail Only

Margie Shames Pozin, PE, CQA, City Engineer
City of Duluth
City Hall, 2nd Floor
3167 Main Street
Duluth, Georgia 30096
mpozin@duluthga.net

Dear Ms. Shames Pozin:

As you may know, Wolverton & Associates, Inc. (“Wolverton”) was acquired by CHA Consulting, Inc. (“CHA”) in 2019, adding to CHA approximately 100 employees and a seasoned team with three decades of experience in transportation, traffic, land development, and land surveying. Combining the firms has fueled growth in the southeast and provided existing clients of both firms with a deeper bench of technical talent and expertise – more than 200 staff and growing in Georgia and Alabama. Since January 1, 2020, Wolverton has been fully integrated and has rebranded as CHA. This rebranding and integration reinforces CHA’s robust transportation, traffic, and civil engineering services and positions CHA as a leading engineering firm in the southeast.

To facilitate this transition, Wolverton would like to assign to CHA its active contract with the City. If you consent to the assignment, please have the appropriate person execute the attached document and return a PDF copy to Nikki C. Dames via e-mail at ndames@chacompanies.com. She is also available to answer any assignment-related questions you may have.

Our goal is to make this transition as seamless as possible for you. If you have any project-related questions, please contact Brian Sapp by telephone at (470) 443-2584 or by e-mail at bsapp@chacompanies.com.

Sincerely,

CHA Consulting, Inc.

Michael A. Platt
General Counsel & Executive Vice President

CONSENT TO ASSIGNMENT OF CONTRACTS

The City of Duluth hereby consents to the assignment of the following agreement and the active task orders underneath it from Wolverton & Associates, Inc. to CHA Consulting, Inc., effective June 1, 2022:

| Agreement Name | Date |
|---|-----------------|
| Consultant Contract – Master Services Agreement, Main Street Enhanced Sidewalk Project | January 4, 2021 |
| | |
| | |

City of Duluth

By: _____
(Signature)

Name: _____

Title: _____

Date: _____



ORDINANCE NO. O-2022-24
AMEND DULUTH MUNICIPAL CODE CHAPTER 15
“STORMWATER UTILITY AND FEES”

WHEREAS, The City of Duluth is authorized by the Georgia Constitution of 1983, including, without limitation, Article IX, Section II, Paragraphs I and III thereof and O.C.G.A. § 36-82-62 to provide stormwater management services, systems, and facilities throughout the corporate boundaries of the City of Duluth; and

WHEREAS, the city presently owns and operates stormwater management systems and facilities, which have been developed over many years. The future usefulness and operational function of the existing stormwater management systems and facilities owned and operated by the city, and the additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities within the city in concert with the management of other water resources within the city. In order to do so, the city must have both a comprehensive stormwater management program as well as an adequate and stable funding source for implementation of its comprehensive stormwater management program and drainage-related capital improvement needs; and

WHEREAS, the city is required under federal and state regulations [i.e. the Federal Clean Water Act, the city's national pollutant discharge elimination system (hereinafter "NPDES") phase I stormwater permit] to provide enhanced management of stormwater runoff quality to mitigate the impacts of pollutants which may be discharged from the public municipal separate storm sewer system (MS4) and stormwater conveyance system into State of Georgia or United States' waters. Therefore, it is appropriate for the city to establish a stormwater utility and impose a stormwater user fee charge upon all improved properties that may discharge, directly or indirectly, into the public MS4 and stormwater conveyance system, whether the property is private or public in nature; and

WHEREAS, the stormwater management services rendered may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater management systems and programs, and risk exposure. It is practical and equitable to allocate the cost of stormwater management among the owners of improved properties in proportion to the demands the properties impose on the city's stormwater management program which results in services being provided to such properties and the owners thereof. The fair and equitable apportionment of costs via the user fee charge should correlate to the stormwater management services provided to that property and the runoff demand that the property imposes on the public drainage system and the city's stormwater management program; and

WHEREAS, the stormwater management needs in the city include, but are not limited to, protection of the public health, safety, and welfare of the community. Provision of stormwater management services renders and/or results in both a service and a benefit to

all properties, property owners, businesses, citizens, and residents of the city in a variety of ways even though the benefits may be indirect or immeasurable; and

WHEREAS, it is imperative that the proceeds from all user fee charges for stormwater management services, systems or facilities, together with any other supplemental revenues raised or otherwise allocated specifically to stormwater management services, systems or facilities, be dedicated solely to those purposes, and such proceeds of user fee charges and supplemental revenues shall therefore be deposited into the City of Duluth Stormwater Utility Enterprise Fund and shall remain in that fund and be dispersed only for stormwater management capital, operating and non-operating costs, lease payments and debt service of bonds or other indebtedness for stormwater management purposes.

SECTION 1. SEVERABILITY.

Should any section or provision of this Ordinance or any Ordinance pertaining to the companion applications as identified herein be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION 2. EFFECTIVE DATE.

The effective date of this Ordinance shall be upon approval by the City Council of the City of Duluth, Georgia.

SECTION 3. REPEALER.

All conflicting ordinances and regulations are hereby repealed and replaced as set forth in this Ordinance, No. O-2022-24.

NOW THEREFORE, the City Council of the City of Duluth hereby ordains that the Duluth Municipal Code Chapter 15 be amended to read as follows:

CHAPTER 15- UTILITIES

ARTICLE I. - STORMWATER UTILITY

Sec. 15-1. - Purpose.

This article shall serve the purpose of establishing the City of Duluth Stormwater Utility.

Sec. 15-2. - Findings of fact.

The mayor and city council make the following findings of fact:

- (1) The City of Duluth is authorized by the Georgia Constitution of 1983, including, without limitation, Article IX, Section II, Paragraphs I and III thereof and O.C.G.A. § 36-82-62 to provide stormwater management services, systems and facilities

throughout the corporate boundaries of the City of Duluth (hereinafter "the City" or "Duluth").

- (2) In promulgating the regulations contained in this article, Duluth is acting pursuant to authority granted by the Constitution and laws of the State of Georgia and its City Charter to provide for stormwater collection and disposal. A system for the collection, conveyance, storage, treatment and disposal of stormwater provides services to all properties within the city and surrounding areas.
- (3) Failure to effectively manage stormwater runoff may:
 - a. Cause erosion of lands, threaten businesses and residences, and other facilities with water damage and may environmentally impair the rivers, streams and other bodies of water within, and downstream of, the city.
 - b. Adversely affect the operations of the sanitary sewer system operated by Gwinnett County thereby increasing the likelihood of infiltration and inflow into the sanitary sewer system.
 - c. Contribute to the potential degradation of the quality of both surface water and groundwater resources.
- (4) The city presently owns and operates stormwater management systems and facilities, which have been developed over many years. The future usefulness and operational function of the existing stormwater management systems and facilities owned and operated by the city, and the additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities within the city in concert with the management of other water resources within the city. In order to do so, the city must have both a comprehensive stormwater management program as well as an adequate and stable funding source for implementation of its comprehensive stormwater management program and drainage-related capital improvement needs.
- (5) The city is required under federal and state regulations [i.e. the Federal Clean Water Act, the city's national pollutant discharge elimination system (hereinafter "NPDES") phase I stormwater permit] to provide enhanced management of stormwater runoff quality to mitigate the impacts of pollutants which may be discharged from the public municipal separate storm sewer system (MS4) and stormwater conveyance system into State of Georgia or United States' waters. Therefore, it is appropriate for the city to establish a stormwater utility and impose a stormwater user fee charge upon all improved properties that may discharge, directly or indirectly, into the public MS4 and stormwater conveyance system, whether the property is private or public in nature.

- (6) Compliance with the regulatory obligations of the city's NPDES phase I stormwater permit, the Metropolitan North Georgia Water Planning District (MNGWPD), the city's comprehensive plan and the other applicable regulatory programs will affect the cost of providing stormwater management services, systems and facilities above what is currently being spent for stormwater management program implementation, water quality management, drainage system maintenance, floodplain management, capital construction and other program activities.
- (7) The cost of operating and maintaining the city's stormwater management system and the funding of necessary repairs, replacements, improvements and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the city's stormwater management program.
- (8) The professional engineering and financing analysis and related documents prepared by the city's stormwater consultant properly assesses and defines the city's stormwater management program problems, needs, goals, priorities and operational costs as well as the stormwater management program funding strategy. The applicable supporting, project-related documents that are incorporated herein by reference include the following: Stormwater Management Program Assessment and Cost Analysis (Technical Memorandum No. 1 dated January 28, 2011); Stormwater Utility User Fee Recommendations Memorandum (Project Memorandum dated April 25, 2011); and Stormwater Utility Implementation (Technical Memorandum Addendum dated April 25, 2011, or the most recent version).
- (9) Given the stormwater management program problems, needs, goals, priorities and funding strategy identified in the aforementioned professional engineering and financing analysis, it is appropriate to authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of stormwater management services, systems and facilities within the city in concert with other water resource management programs.
- (10) Stormwater management is applicable and needed throughout the incorporated areas of the city. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management system and service area encompassing all lands and water bodies within the incorporated areas of the City of Duluth is consistent with the present and future needs of the community.
- (11) The stormwater management services rendered may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater management systems and programs, and risk exposure. It is practical and equitable to allocate the cost of stormwater management among the owners of improved properties in proportion to the demands the properties impose on the city's stormwater management program

which results in services being provided to such properties and the owners thereof. The fair and equitable apportionment of costs via the user fee charge should correlate to the stormwater management services provided to that property and the runoff demand that the property imposes on the public drainage system and the city's stormwater management program.

- (12) The stormwater management needs in the city include, but are not limited to, protection of the public health, safety, and welfare of the community. Provision of stormwater management services renders and/or results in both a service and a benefit to all properties, property owners, businesses, citizens, and residents of the city in a variety of ways even though the benefits may be indirect or immeasurable.
- (13) A stormwater management program provides the most practical and appropriate means of properly delivering stormwater management services throughout the city, and the most equitable means to implement an enhanced level of service for stormwater management service delivery within the city through stormwater user fee charges, user fees and other mechanisms.
- (14) The amount of impervious surface on each improved property is the most important factor influencing stormwater runoff characteristics and these characteristics bear a rational nexus to the cost of the stormwater management services provided by the city, or to be provided by the city in the future, to that property. As a result, the amount of impervious surface on each property is therefore the most appropriate parameter for calculating a periodic stormwater user fee charge.
- (15) A schedule of stormwater utility user fee charges based on the area of impervious surface located on each improved property is the most appropriate and equitable means of allocating the cost of stormwater management services throughout the city. Stormwater utility user fee charges may be designed with specific modifiers to further enhance customer equity, as well as customer understanding of the user fee charge rate structure, while at the same time minimizing the city's customer account management and maintenance efforts.
- (16) Stormwater utility user fee charges may be supplemented by other types of fees and charges which address specific needs, including, but not limited to, special service fees, special assessments, revenue bonds, use of proceeds from special purpose local option sales taxes (SPLOST) and other forms of revenue, as deemed appropriate by the mayor and city council.
- (17) The existence of privately owned and maintained on-site stormwater control facilities, activities or assets which reduce, or otherwise mitigate, the impact of a particular property on the city's stormwater management program, and the stormwater utility's cost of providing stormwater management services and/or stormwater management systems and facilities, should be taken into account to reduce the user fee charge on that property either in the form of a direct reduction

or a credit, and such reduction or credit should be conditioned upon continuing provision of such services, systems, facilities, activities or assets in a manner complying with the standards and codes as determined by the stormwater utility. Credits for privately owned and maintained stormwater management systems, facilities, activities or assets shall be generally proportional to the affect that such systems have on the reduction and mitigation of the stormwater runoff impacts from the property.

- (18) It is imperative that the proceeds from all user fee charges for stormwater management services, systems or facilities, together with any other supplemental revenues raised or otherwise allocated specifically to stormwater management services, systems or facilities, be dedicated solely to those purposes, and such proceeds of user fee charges and supplemental revenues shall therefore be deposited into the City of Duluth Stormwater Utility Enterprise Fund and shall remain in that fund and be dispersed only for stormwater management capital, operating and non-operating costs, lease payments and debt service of bonds or other indebtedness for stormwater management purposes.
- (19) In order to protect the health, safety and welfare of the public, the governing authority of the City of Duluth hereby exercises its authority to establish a stormwater utility enterprise fund. The city will enact a stormwater utility rate ordinance in the future to establish stormwater utility user fee charge rates for the provision of stormwater management services.

Sec. 15-3. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means and refers to the Clean Water Act as amended by the Water Quality Act of 1987 (33 U.S.C. § 1251 et seq.), as amended, and the rules and regulations promulgated by the United States Environmental Protection Agency pursuant thereto.

Attached single family residential (ASFR) property shall mean improved property containing individually owned, attached dwelling units such as duplexes, triplexes, quadplexes, condominiums, townhouses, or other similar residential structures not listed herein where one or more family groups commonly and normally reside or could reside. Improved property may be classified as an ASFR despite the presence of incidental structures associated with residential uses such as garages, carports and small storage buildings. Improved property may be classified as ASFR property despite the presence of a commercial use. ASFR property shall not include improved property used primarily for non-residential purposes, herein defined as NSFR properties or properties defined herein as DSFR.

Credit means a reduction in the amount of a customer's stormwater user fee charge in recognition of a customer's efforts to mitigate the stormwater runoff impact that developed property has on the city stormwater management services and systems, and/or the efforts of a customer to offset the city's cost for implementation of stormwater management program activities such as public education, watershed stewardship, etc.

Customers of the stormwater utility shall include all persons, properties, and entities serviced by and/or benefiting from the services provided by the city's stormwater management program and the stormwater utility. These services include, but are not necessarily limited to, the stormwater utility's administration, management, maintenance, expansion, and improvement of the public stormwater management systems for the handling of stormwater runoff of private and public properties, and the regulation of the public and private stormwater management systems, controls, facilities, and activities.

Detached single family residential (DSFR) property shall mean improved property containing one (1) residential structure situated upon a single lot of record which is not attached to another dwelling, and which contains one (1) or more bedrooms, with bathroom and kitchen facilities, designed for occupancy by one (1) family. Improved property may be classified as a DSFR property even if there is present incidental structures associated with residential uses such as garages, carports, storage buildings, guest houses, servants or caretaker's quarters, cottages or barns, or the presence of a commercial use within the residence, as long as such use does not result in additional areas of impervious surfaces. DSFR properties shall not include improved property containing structures used primarily for nonresidential purposes, manufactured homes located within manufactured home parks where the land is owned by someone other than the owners of the manufactured homes, ASFR developments, or undeveloped property.

Dwelling unit means a structure, regardless of the type or method of construction, which contains one (1) or more bedrooms, a bathroom, and cooking facilities, designed for occupancy by one (1) or more person(s) regardless of relationship, living as a single-family unit.

Equivalent residential unit (ERU) means the stormwater user fee charge billing unit increment related to the mean horizontal impervious surface area footprint of two thousand nine hundred ninety-seven (2,997) square feet for a detached, single family residential (DSFR) residential parcel within the city as defined herein. The mean horizontal impervious surface area footprint for parcels defined herein as attached single family residential (ASFR) is one thousand four hundred ninety-nine (1,499) square feet.

Hydrologic response defines the manner and means whereby stormwater collects, remains, infiltrates, and is conveyed from a property. Hydrologic response is dependent on several factors including, but not limited to, the presence of impervious surface, the parcel's size, the parcel's shape, the parcel's topography, the parcel's vegetative canopy, the parcel's groundwater characteristics, the parcel's on-site operations, the parcel's stormwater

controls, the parcel's antecedent moisture as well as the parcel's geologic and hydro-geologic characteristics.

Impervious area shall mean and have the same definition as impervious surface.

Impervious surface means those areas which prevent or impede the infiltration of stormwater into the soil in the manner in which it entered the soil, in natural conditions, prior to development and causes stormwater runoff to collect, concentrate or flow in a manner materially different from what would occur if the land were in an unaltered natural condition. Common impervious surfaces include, but are not limited to, rooftops, buildings or structures, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of rainfall, or stormwater runoff, which existed prior to development.

Improved property (or developed property) means property altered from its natural state by construction or installation of more than five hundred (500) square feet of impervious surfaces.

Non-single family residential (NSFR) property shall mean a developed parcel of land that consists of various non-residential land uses including, but not limited to: (1) multi-family, commercial (including mixed commercial & residential), office/institutional, public, transportation, industrial, manufacturing and storage buildings and facilities; (2) parking lots, parks, public and private schools, universities and hospitals; (3) streets, roads, water and wastewater treatment plants; and (4) any other form of use not specifically defined as a single family residential property (SFR).

Parcel shall mean a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Private stormwater management systems and facilities shall mean those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catch basins, pipes, headwalls, storm drains, lakes and other physical works, properties and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff or water quality, which are not public.

Public stormwater management systems and facilities (or the city's municipal separate storm sewer system) shall mean those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catch basins, pipes, headwalls, storm drains, public streets, curbs and gutters, lakes and other physical works, properties and improvements which transfer, control, convey or otherwise influence either the movement of stormwater runoff or water quality, which are owned by the City, where the City has exercised dominion and control, or over which the City has accepted dedication of an easement or other legally binding permanent right of use for stormwater drainage and for which the City has the obligation of maintenance for stormwater drainage purposes.

Service area means the entire land area within the corporate limits of the City of Duluth.

Stormwater management services mean all water quality and water quantity related services provided by the city which relate to the:

- (1) Transfer, control, conveyance or movement of stormwater runoff through the incorporated areas of the city;
- (2) Maintenance, repair and replacement of existing stormwater management systems and facilities;
- (3) Planning, development, design and construction of additional stormwater management systems and facilities to meet current and anticipated needs;
- (4) Regulation of the use of stormwater management services, systems and facilities;
- (5) Compliance with applicable state and federal stormwater management regulations and permit requirements; and
- (6) Other services as the deemed appropriate by the city.

Stormwater user fee charge means the periodic user fee charge imposed pursuant to the ordinance from which this article is derived and other applicable ordinances by the City of Duluth Stormwater Utility for providing stormwater management services and stormwater management systems and facilities. This term shall exclude special charges to the owners of particular properties for services, systems or facilities related to stormwater management, including, but not limited to, charges for development plan review, inspection of development projects, on-site stormwater control systems and other stormwater management related services provided by the City for which a corresponding fee is collected for the service rendered.

Stormwater utility manager means the person appointed by the mayor and city council to administer the provisions of this article.

Undeveloped land means land in its unaltered natural condition or which is modified to such a minimal degree as to have a hydrologic response comparable to land in an unaltered natural condition shall be deemed undeveloped. For purposes of this article, undeveloped land includes property altered from its natural condition by the creation or installation of five hundred (500) square feet or less of impervious surface.

User is defined as any entity that owns and/or uses property, which maintains connection to, discharges to, or otherwise receives services from the city for stormwater management.

Sec. 15-4. - Stormwater utility and enterprise fund established.

- (a) There is hereby established a stormwater utility to be known as the City of Duluth Stormwater Utility, which shall be responsible for stormwater management services throughout the incorporated areas of the city, and which shall provide for the management, protection, control, regulation, use and enhancement of the city's stormwater management systems and facilities and stormwater management services.

- (b) There is hereby established a stormwater utility enterprise fund in the city budgeting and accounting systems for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the city stormwater management program and stormwater utility, including, but not limited to, rates, charges, and fees as may be established by the mayor and city council from time to time, and other funds that may be transferred or allocated to the stormwater utility.
- (c) All revenues and receipts of the stormwater utility shall be placed in the stormwater utility enterprise fund in trust; to be expended solely for stormwater management related purposes and services. Stormwater utility revenue shall be used only for operating expenses and/or capital investments of the stormwater utility. However, other forms of revenue and/or financial resources, not accounted for in the stormwater utility revenue, may be allocated as deemed appropriate by the mayor and city council to provide supplemental funding to the stormwater management program and for the provision of stormwater management services.
- (d) The city shall place responsibility with the city manager or his/her designee (hereafter referred to as the stormwater utility manager) for the operation, maintenance and regulation of the stormwater utility and stormwater management program services performed, owned and operated or maintained by the city, and other related assets, including, but not limited to, properties, other than road rights-of-way, upon which such stormwater management systems and facilities are located, easements, rights-of-entry and access and certain equipment used solely for stormwater management.

Sec. 15-5. - Stormwater utility service area.

- (a) There shall be one (1) stormwater utility service area in the city which shall encompass the municipal boundaries of the City of Duluth. The city has established that all developed parcels within the municipal boundaries receive stormwater management services from the city. Improved/developed properties within the defined service area will receive a stormwater user fee charge bill because they contribute stormwater runoff to the public drainage system; they are directly or indirectly connected to the city's drainage system; and they receive stormwater management services from the city at varying service levels from which they derive some degree of benefit even through the benefit may be indirect and immeasurable.

Sec. 15-6. - Scope of responsibility for stormwater management systems and facilities.

- (a) The stormwater utility shall provide stormwater management services for existing and proposed public stormwater management systems and facilities as defined in this article, subject to funding availability and to policy determinations made in the best interest of the public health, welfare and safety and the environment. Additionally, the stormwater utility may accept the responsibility for providing stormwater management services to private stormwater management systems and

facilities, acceptance of which conforms to policies established by the mayor and city council or those persons or entities designated by the mayor and city council to set such policies.

- (b) In addition to ownership of all stormwater management systems and facilities within the city's public road rights-of-way, the city owns or has rights established by written agreements which allow it to operate, maintain, improve and access those stormwater management systems and facilities which are located:
- (1) On private property but within legally dedicated easements granted to, and accepted by, the city;
 - (2) On private property where the city has been granted, by written agreements, for rights-of-entry, rights-of-access, rights-of-use or other permanent provisions for operation, maintenance, improvement and access to the stormwater management system facilities located thereon;
 - (3) On land dedicated to, and accepted by, the city solely for the operation, maintenance, improvement and access to the stormwater management systems and facilities located thereon;
 - (4) On public land which is owned by the city and/or land of another governmental entity upon which the city has agreements providing for the operation, maintenance, improvement and access to the stormwater management systems and facilities located thereon; or
 - (5) In any platted single family residential subdivision, any pipe or other manmade structurally artificial conveyance which conveys water from within the public road rights-of-way maintained by the city or public road easements maintained by the city to its point of discharge. This shall not include any pipes or other manmade conveyances that convey water from private property to public rights-of-way/road easements and/or discharge on public rights-of-way/road easements.
- (c) Operation, maintenance and/or improvement of stormwater management systems and facilities which are located on private or public property not owned by the city, and for which there has been no written agreement granting easements, rights-of-entry, rights-of-access, rights-of-use or other form of dedication thereof to the city for operation, maintenance, improvement and access of such stormwater management systems and facilities shall be and remain the legal responsibility of the property owner, except as otherwise provided for by the state and federal laws and regulations.
- (d) The stormwater utility may provide stormwater management services to privately owned stormwater management systems and facilities to ascertain that said facilities are functioning as designed and approved. The stormwater utility may

provide for remedial maintenance of said private facilities based upon the severity of stormwater problems and potential hazard to the public health, safety, and welfare and the environment, and in cases where such remedial maintenance is required the city reserves the right to bill the owner or owners of said private facility for the costs of such maintenance.

- (e) It is the express intent of this article to protect the public health, safety and welfare of people and property in general, but not to create any special duty or relationship with any individual person, or to any specific property within or outside the municipal boundaries of the city. The city expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the city, its elected officials, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.
- (f) If any permit, plan approval, inspection or similar act is required by the city as a condition precedent to any activity or change upon property not owned by the city pursuant to this or any other regulatory ordinance, regulation or rule of the city, or under federal or state law, the issuance of such permit, plan approval or inspection shall not be deemed to constitute a warranty, express or implied, nor shall it afford the basis for any action, including any action based on failure to permit, negligent issuance of a permit, negligent plan approval, or negligent maintenance of any permitted stormwater management system or facility not expressly dedicated to and accepted by the city for further maintenance in an action seeking the imposition of money damages or equitable remedies against the city, its city council members, mayor, officers, employees or agents.

Sec. 15-7. - Stormwater user fee charges.

- (a) It shall be the policy of the city that user fee charges for stormwater management services to be provided by the stormwater utility in the designated service area shall be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the stormwater management services by individual properties and/or the level of service rendered by, or resulting from, the provision of stormwater management services by the city.
- (b) The basis for calculation of the stormwater user fee charge to all developed property within the city is established in this article. The city shall assign or determine the customer class, amount of impervious area and other pertinent factors as may be needed for the fair, reasonable and equitable allocation of the costs to deliver stormwater management services and to calculate the stormwater user fee charges for all developed properties in the city.
- (c) Stormwater user fee charge rates shall be structured so as to be uniform within the customer class, and the resultant user fee charges shall bear a reasonable

connection, or rational nexus, to the cost of providing stormwater management services. User fee charge rates shall be in addition to other rates, charges, or fees employed for stormwater management within the incorporated areas of the city as defined herein.

- (d) To the extent practicable, credits against stormwater user fee charges shall be provided for on-site stormwater control systems and activities constructed, operated, maintained and performed to the city's standards by public and private property owners which eliminate, mitigate or compensate for the impact that the property or person may have upon stormwater runoff discharged to public stormwater management systems and facilities, or to private stormwater management systems and facilities which impact the proper function of public stormwater management systems and facilities.
- (e) The stormwater user fee charges shall accrue beginning July 1, 2011 and shall be billed periodically by the city thereafter via a method established by the mayor and city council.

Sec. 15-8. - Stormwater utility customer classes.

- (a) The stormwater utility shall establish specified customer classes within the service area to reflect differences in impervious surface and stormwater runoff characteristics; stormwater management program services provided by the city to the stormwater utility customers; and the respective demand that those customers' properties place on the city stormwater management program and drainage system components. All publicly owned, developed properties are subject to the user fee charges on the same basis as private properties, unless otherwise exempted. The stormwater utility classes will encompass all developed and undeveloped properties within the city and are defined as follows:
 - (1) The detached single family residential (DSFR) class shall consist of all developed properties classified as DSFR customers per the applicable definition.
 - (2) The attached single family residential (ASFR) class shall consist of all developed properties classified as ASFR customers per the applicable definition.
 - (3) The non-single family residential (NSFR) class shall consist of all developed properties classified as NSFR customers per the applicable definition.
 - (4) The undeveloped class shall consist of properties classified as undeveloped per the applicable definition.
 - (5) Documentation pertaining to the stormwater utility customer classes shall be kept on file in the office of the stormwater utility manager for public inspection.

Sec. 15-9. - Stormwater utility user fee charge rates.

- (a) The stormwater utility shall impose a stormwater user fee on all developed properties within the service area in a fair and equitable manner, including, except as otherwise provided herein. The stormwater utility shall apportion the cost of delivering stormwater services to all developed properties based on the demand the property places on the city's stormwater management program, the stormwater services provided by the city to that property and the benefits derived.
- (b) The mayor and city council shall establish by ordinance the stormwater user fee charge rates, and the billing rates may be modified by the mayor and city council from time to time to meet the financial and operational needs of the Duluth Stormwater Utility. A schedule of said rates shall be on file in the office of the City Clerk for public inspection. In setting or modifying such rates, it shall be the goal of the city to establish rates that are fair, equitable and reasonable, and which, together with other funding sources available to the Duluth Stormwater Utility for services, systems, and/or facilities related to stormwater management are sufficient to support the cost of the stormwater management program, including, but not limited to, the payment of principal and interest on debt obligations, lease payments, operating expenses, capital outlays, non-operating expenses, provisions for prudent reserves and other stormwater utility related costs as deemed appropriate by the city.
- (c) Stormwater user fee charges shall be based upon the total number of equivalent residential units (ERUs) associated with developed properties within the city. Each ERU shall correspond to two thousand nine hundred ninety-seven (2,997) square feet of impervious surface.
- (d) Gravel and compacted soil associated with driveways, parking areas, roads and all other areas that consist of these types of surface (or near surface) conditions on developed property will be designated as impervious surface and included in the customer's ERU calculation because of the hydrologic response characteristics of these materials. The total surface area associated with these materials will be calculated at eighty-five (85) percent of the total ERUs to reflect the hydrologic response characteristics and infiltration capabilities of these materials.
- (e) Calculation of user fee charges. The periodic stormwater user fee charges imposed on all developed properties shall be calculated by multiplying the stormwater user fee billing rate (per ERU) times the number of ERUs for each customer account. The number of ERUs that will be utilized to calculate the user fee charge for each customer account shall be in general accordance with the following:
- (1) DSFR customer class: Each DSFR customer account shall be charged a flat rate of 1.0 ERU except as noted below:
- a. If a DSFR customer account consists of more than eight thousand nine hundred ninety-one (8,991) square feet of impervious surface (or

three 3.0 ERUs), the customer account for that parcel will be charged as per the NSFR calculation described herein.

- (2) ASFR customer class: Each ASFR customer account shall be charged a flat rate of 0.5 ERU.
- (3) NSFR customer class: Each NSFR customer shall be charged 1.0 ERU for each 2,997 square feet, or increment thereof, of impervious surface located on the property to establish the total number of ERUs for billing. Fractional ERUs will be rounded to one decimal place to establish the total number of ERUs for billing.
- (4) Undeveloped land customer class: Undeveloped land shall not be charged a stormwater user fee.

Sec. 15-10. - Stormwater user fee charge exemptions.

- (a) Except as provided in this section or otherwise provided by law, no developed public or private property located in the incorporated area of the city shall be exempt from the stormwater user fee charges. The stormwater utility user fee charge is not a tax and no exception, credit, offset, or other reduction in stormwater user fee charges shall be granted based on age, tax status, economic status, race, religion, disability, or other condition unrelated to the stormwater utility's cost of providing stormwater management program services and facilities.
- (b) Exemptions to the stormwater user fee charges are as follows:
 - (1) Parcels which contain five hundred (500) square feet, or less, of impervious surfaces shall be exempt from stormwater user fee charges.
 - (2) Linear railroad rights-of-way (i.e. tracks, rails, roadbed) outside of the defined yard limits shall be exempt from stormwater user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction activities undertaken by the rail road company associated with rights-of-way and drainage conveyance systems. However, railroad stations, rail yards, maintenance buildings, and/or other improved property used for railroad operations shall not be exempt from stormwater user fee charges.
 - (3) City streets and rights-of-way shall be exempt from stormwater user fee charges and the stormwater utility shall not charge the city a user fee charge for the city's impervious surface area resulting from the city's impervious surfaces which are owned and/or maintained by the city within the public rights-of-way. This exemption is in consideration of the city allowing the stormwater utility to utilize the city's existing streets, curbs, gutters, drainage ways and ditches, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural and man-made within and owned by the city which controls and diverts surface water for the purposes of collecting, diverting, transporting and controlling surface and storm waters.

- All other developed property owned by the city shall be subject to the imposition of stormwater user fee charges in accordance with this article.
- (4) Private streets within the city as defined by applicable city ordinances and that are part of platted subdivisions will be exempt from the stormwater user fee charge.
 - (5) Gwinnett County roads and rights-of-way located within the city limits shall be exempt from stormwater user fee charges in situations where Gwinnett County has legal responsibility to perform all drainage system maintenance and capital construction activities with respect to such roads and rights-of-way. This exemption is in recognition of the drainage system maintenance and capital construction responsibilities undertaken by Gwinnett County. All other developed property owned by Gwinnett County that is within the service area shall be subject to the imposition of stormwater user fee charges in accordance with this article.
 - (6) Georgia Department of Transportation (GDOT) roads and rights-of-way shall be exempt from stormwater user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction activities undertaken by GDOT in association with GDOT rights-of-way road and drainage conveyance systems. However, maintenance buildings and/or other developed property used for GDOT purposes shall not be exempt from stormwater user fee charges.

Sec. 15-11. - Stormwater user fee charge credits.

- (a) The stormwater utility manager shall grant credits or adjustments based on the technical and procedural criteria set forth in the City of Duluth Stormwater Utility Credit Manual (Credit Manual), which is incorporated into this article by reference and made a part hereof. Copies of the credit manual will be maintained by and made available from the stormwater utility manager.
 - (1) Customers may apply for credits and/or adjustments in accordance with the credit manual.
 - (2) A stormwater user fee charge credit shall be determined based on the technical requirements, standards and criteria contained in the credit manual. The amount of credit, or reduction of the stormwater user fee charge, shall be in accordance with the criteria contained in the credit manual.
 - (3) Any credit allowed against the stormwater user fee charge is conditioned on continuing compliance with the city's design and performance standards as stated in the credit manual and upon continuing provision of the controls, systems, facilities, services, and activities provided, operated, and maintained by the customer. The stormwater utility manager may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the credit manual or this article.

- (4) In order to obtain a credit, the customer must make application to the city on forms provided by the stormwater utility manager for such purpose, and in accordance with the procedures outlined in the credit manual.
 - (5) The application for any credit or adjustment must be in writing and must include the information necessary to establish eligibility for the credit or adjustment, and be in the format described in the credit manual. The customer's stormwater utility account must be paid and current prior to review and approval of a stormwater utility credit application by the city, except during the initial credit application period prior to issuance of the first bill. Incomplete applications will not be accepted for consideration and processing.
- (b) When an application for a credit is deemed complete by the stormwater utility manager, he shall have thirty (30) days from the date the complete application is received to approve the credit in whole, approve the credit in part, or deny the credit. The stormwater utility manager's decision shall be in writing and will be mailed to the address provided on the adjustment request, and service shall be complete upon mailing. Credits applied for by the customer and approved in whole or in part, shall apply to all stormwater user fee charges in accordance with the terms defined in the credit manual.

Sec. 15-12. - Stormwater user fee charge adjustments.

- (a) Adjustments.
 - (1) The stormwater utility manager shall administer the procedures and standards for the adjustment of the stormwater user fee charge.
 - a. If a customer believes his stormwater user fee is incorrect, the customer may seek an adjustment of the stormwater user fee charge allocated to a property at any time by submitting the request in writing to the stormwater utility manager on forms provided by the city and setting forth in detail the grounds upon which relief is sought. The customer's stormwater utility account must be paid and current prior to consideration of an adjustment request by the city, except during the period prior to issuance of the first bill.
 - b. Customers requesting an adjustment shall be required, at their own expense, to provide accurate impervious area and other supplemental information to the stormwater utility manager, including, but not limited to, a survey certified by a registered land surveyor or a professional engineer, unless otherwise allowed by the city. Submittal of this information will be required if the city staff cannot make a determination based on field inspection and/or review of existing city aerial photography. Failure to provide the required information within the time limits established by the stormwater utility manager,

as may be reasonably extended, may result in denial of the customer's adjustment request.

- c. Once a completed adjustment request and all required information are received by the stormwater utility manager, the stormwater utility manager shall within thirty (30) calendar days render a written decision.
- d. In considering an adjustment request, the stormwater utility manager shall consider whether the calculation of the stormwater user fee charge for the property is correct.
- e. The stormwater utility manager's decision shall be in writing and will be mailed to the address provided on the adjustment request, and service shall be complete upon mailing.
- f. If the result of an adjustment is that a refund is due the applicant, the refund will be applied as a credit on the applicant's next stormwater user fee charge bill.

Sec. 15-13. - Appeals and hearings.

- (a) Appeals. An appeal to the city manager may be taken by any property owner or customer aggrieved by any decision of the stormwater utility manager. The appeal shall be taken within thirty (30) calendar days of the decision of the stormwater utility manager by filing with the city manager a notice of appeal in writing specifying the grounds thereof. Upon the filing of the notice of appeal, the stormwater utility manager shall forthwith transmit to the city manager all documentation constituting the record upon which the decision appealed from was taken.
- (b) Hearings. The city manager shall fix a reasonable time for hearing the appeal and give written notice to the appellant at least ten (10) calendar days prior to the hearing date. The notice shall indicate the place, date and time of the hearing. The city manager shall affirm, reverse, affirm in part, or reverse in part the decision of the stormwater utility manager after hearing the evidence. If the decision of the stormwater utility manager is reversed in whole or in part, resulting in a refund or credit due to the property owner or customer, then such refund or credit shall be calculated retroactive to the date of the initial appeal. The decision of the city manager shall be final, and there shall be no further administrative appeal. Any person aggrieved or dissatisfied with the decision of the city manager may petition the Superior Court of Gwinnett County for Writ of Certiorari.

Sec. 15-14. - Enforcement methods and inspections.

- (a) All property owners of improved property within the incorporated areas of the city shall provide, manage, maintain, and operate on-site stormwater management systems sufficient to collect, convey, detain, and discharge stormwater runoff in a safe manner consistent with all applicable City development regulations,

ordinances, and state and federal laws. Any failure to meet this obligation shall constitute a violation of this article and be subject to citation and prosecution in the City of Duluth Municipal Court. Each day such violation exists shall constitute a separate offense.

- (b) In the event a public nuisance is deemed to exist by the mayor and city council, the city may elect to sue in municipal court to abate such nuisance. In the event a public nuisance is found by the court to exist, which the property owner fails to abate within such reasonable time as allowed by the City of Duluth Municipal Court, the city may enter upon the property and cause work as is reasonably necessary to be performed, with the actual cost thereof assessed against the property owner in a similar manner as a tax levied against the property. From date of filing of such abatement action, the city shall have lien rights which may be perfected, after judgment, by filing a notice of lien on the general execution docket of the City of Duluth Municipal Court.
- (c) The city shall have the right for its employees or designated agents to enter upon public and private property during reasonable hours, and after reasonable notice to the owner thereof, in order to assure compliance with the provisions of this article, and state and federal law. Such inspections shall generally be limited to the following purposes:
 - (1) Inspecting or conducting engineering analyses on existing stormwater management systems and facilities located on-site;
 - (2) Verification and review of information contained within a stormwater utility credit manual application; and
 - (3) Determining that stormwater management systems and facilities need to be constructed.

Sec. 15-15. - Severability.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this article shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this article.

Sec. 15-16. - Repeal.

All ordinances or parts thereof which are in conflict with any provision or any section, subsection, paragraph, provision or clause of the ordinance from which this article is derived are hereby repealed to the extent of the conflict.

Secs. 15-17—15-19. - Reserved.

ARTICLE II. - STORMWATER FEES

Section 15-20. - Stormwater user fee billing, delinquencies, collections and rates.

(a) Billing.

- (1) A bill for stormwater user fee charges may be sent through the United States Postal Service or by alternative means, notifying the owner of the property being billed of the amount of the stormwater user fee charge, less credits, the date the payment is due and the date when payment is past due.
- (2) The city council authorizes the city clerk to bill and collect the Duluth Stormwater User Fee Charge as part of the property/ad valorem tax bill. The city council further authorizes the city clerk to charge and collect penalties and interest as set forth in subsection (b) of this section.
- (3) If a bill for a stormwater user fee charge for a particular parcel is generated, failure of the customer to receive the bill shall not be justification for nonpayment.
- (4) Regardless of the party to whom the bill is initially directed, the owner of the property, as identified from the public land records of Gwinnett County, shall be obligated to pay the appropriate stormwater user fee charge for that property and any interest and/or penalties that have accrued.
- (5) If a property is unbilled, or if no bill is sent for a particular tract of improved property, the Duluth Stormwater Utility may back bill for a period of up to one (1) year, but shall not be entitled to any interest or any penalty charges during the back billed period.

(b) Delinquencies and collection.

- (1) A penalty or late charge in the amount of ten (10) percent of the base amount due and unpaid ninety (90) days after the due date shall be assessed against the customer.
- (2) In addition to the penalty stated above, interest in the amount of one (1) percent per month shall accrue on all unpaid amounts beginning December 16 of the year in which the payment is due.
- (3) The city shall assess all costs of collection, including attorneys' fees and court costs, against the property owner.
- (4) Unpaid stormwater user fee charges shall be collected in any manner permissible by Georgia law, including but not limited to: utilizing the services of a collection agency, by filing suit to collect on an unpaid account, or by using all methods allowed by Georgia law to collect on any judgment obtained, including enforcement of any lien resulting from any such judgment. Unless reduced to a judgment and a writ of fieri facias (FiFa) issued, the unpaid user fee charge shall not constitute a direct lien against the owner and/or the property.

(c) Rates.

- (1) All parcels in the city shall be segregated into one (1) of four (4) customer classes: detached single-family residential (DSFR), attached single-family residential (ASFR), non-single-family residential (NSFR) and undeveloped.
- (2) The stormwater utility shall establish that one (1) equivalent residential unit (ERU) equals two thousand nine hundred ninety-seven (2,997) square feet of impervious surface area. The ERU of two thousand nine hundred ninety-seven (2,997) square feet is the mean impervious surface footprint for a typical DSFR parcel within the city. The stormwater user fee for one (1) ERU shall be seventy-five dollars (\$75) per year.
- (3) All developed parcels with at least five hundred (500) square feet of impervious surface area shall be billed for stormwater management program (SWMP) services and undeveloped parcels shall not be billed.
- (4) DSFR and ASFR parcels shall be billed a flat rate charge for SWMP services. All DSFR parcels will be charged one (1) ERU or seventy-five dollars (\$75) per year and all ASFR parcels will be charged one half (0.5) ERU or thirty seven dollars and fifty cents (\$37.50) per year, per dwelling unit, except as otherwise provided in this section.
- (5) DSFR parcels with eight thousand nine hundred ninety-one (8,991) square feet or more of impervious surface area (or three (3) ERUs) shall be charged using the NSFR rate calculation method as outlined herein.
- (6) NSFR parcels shall be billed on a parcel specific basis based on the actual amount of impervious surface area. NSFR parcels shall be seventy-five (\$75) per year for each increment of two thousand nine hundred ninety-seven (2,997) square feet impervious surface area, or fraction thereof.

Secs. 15-21—15-29. – Reserved.

Article III. – Special Districts for Residential Stormwater Management Systems and Facilities

Section 15-30. Findings.

The city finds that there are many private stormwater management systems and facilities that have been constructed over the course of many years within the city and that many of these exist in states of disrepair or have the potential to fail with potentially damaging consequences to water quality and environmental health, as well as damage to private and public property in the city. With this threat to the health, welfare, and safety of the public in mind, the city enacts the following procedures by which those property owners utilizing private stormwater management systems and facilities may dedicate the maintenance of those systems to the city.

Section 15-31. Creation of special districts for stormwater management systems and facilities.

- (a) Any private residential lot owner served by a private stormwater management system or facility located within the city limits may present a request to be included in a special district to the city. Upon receipt of the request, the city shall determine the appropriate boundaries for the proposed special district for stormwater management that will serve the lot owner presenting the request and neighboring lot owners. The boundary shall consist of the residential neighborhood property served by a private stormwater management system or facility.
- (b) Upon receipt of a request, and after review, the city shall prepare a map showing the area for the proposed special district for stormwater management, identifying all the private property as well as any private stormwater maintenance systems or facilities within the proposed district. The city shall inspect and evaluate the condition of the private system and prepare a cost estimate. The cost estimate shall indicate the expected cost of making initial necessary repairs to the stormwater maintenance systems or facilities as well as an annual cost for maintenance thereafter.
- (c) Once the city has prepared the map and estimated the costs, the map and the cost estimate shall be made a part of a petition that may then be circulated among the private lot owners within the proposed district.
- (d) If a petition bearing signatures of more than 50 percent of the lot owners in the proposed district is returned to the city within one year of creation of the original petition by the city, the city shall verify the signatures on the petition and verify that the signatures represent more than 50 percent of the private lot owners in the proposed district. After satisfactory verification, the petition shall be presented to the city council. The city council shall conduct a public hearing for the purpose of determining whether to create the proposed special district for stormwater management. Notice in a

newspaper of general circulation shall be advertised at least 15 days before the public hearing indicating the time, place, and purpose of the hearing. At least 30 days prior to the hearing, a sign shall be placed on the city right of way at each public entrance to the subdivision advertising the time, place, and purpose of the hearing, and notice of the time, place, and purpose of the hearing shall be mailed to each property owner identified by tax records

- (e) Should the city council determine the creation of the district to be in the best interest of the city, they shall approve the creation of said district by ordinance or resolution. Said districts shall exist until such time as city council repeals the ordinance or for the time provided in the resolution creating such district; provided however that no such district shall exist for a period of more than ten years. The map and cost estimates of such special districts shall be maintained at city hall and be open to public inspection.
- (f) Should the city council determine the creation of the district is not in the best interest of the city, no such request containing any of the area included in the proposed district may be proposed to the city for a period of two years.

Section 15-32. Fees Assessed in Special Districts

- (a) Fees shall be assessed on each private lot within a special district created pursuant to section 15-31 in an amount necessary to pay the costs of initial repair of the stormwater system or facilities within the district. Such fees shall be in addition to and not in lieu of the city stormwater fee in article I and article II of this chapter.
- (b) The fee may be billed separately, on a customer statement and collected along with other fees for services, or on a customer ad valorem tax statement, at the city's sole discretion, provided that in no instance shall the service fee constitute a direct lien against the parcel. Unpaid fees shall be collected by filing suit to collect on an unpaid account and by using all methods allowed by Georgia law to collect on any judgment obtained thereby.

IT IS SO ORDAINED this 11th day of July 2022.

Mayor Nancy Harris

Those councilmembers voting in favor:

Charles Jamin Harkness, Post 1

Marline Thomas, Post 2

Kenneth Lamar Doss, Post 3

Manfred Graeder, Post 4

Greg Whitlock, Post 5

Those councilmembers voting in opposition:

ATTEST: _____

Teresa S. Lynn, Asst. City Mgr/City Clerk

**ORDINANCE
TO AMEND THE CITY OF DULUTH
2023 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2023 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2023 fiscal year as follows:

| | |
|-----------------------------------|-------------------|
| Total Revenues: | <u>64,931,879</u> |
| Operations Expenditures: | <u>34,163,187</u> |
| Capital Improvement Expenditures: | <u>30,768,692</u> |
| Total Expenditures: | <u>64,931,879</u> |

For a balanced budget in compliance with the laws of the State of Georgia.

WHEREAS the City of Duluth approved an ordinance increasing the Stormwater Utility charge per 1 Equivalent Residential Unit (2,997 square feet) to an annual fee of \$75.00 for all Detached Single Family Residential property and \$37.50 for all Attached Single Family Residential property; and

WHEREAS based on an estimated \$300,000 increase in Stormwater Utility revenue based on this changes staff is requesting approval of a budget amendment for the Stormwater Utility Fund; and

WHEREAS it is requested \$300,000 in stormwater revenue be added to the Stormwater Utility – Stormwater Utility Charges 2022 line item and a like amount to Stormwater Utility – Stormwater Collection & Disposal – Repairs and Maintenance line item; and

NOW THEREFORE, the City of Duluth 2023 Fiscal Year Budget is amended as follows:

| | |
|------------------------------------|-------------------|
| Total Revenues & Prior Yr Reserves | <u>65,231,879</u> |
| Operations Expenditures: | <u>34,463,187</u> |
| Capital Improvement Expenditures: | <u>30,768,692</u> |
| Total Expenditures: | <u>65,231,879</u> |

IT IS SO ORDAINED this _____ day of _____, **2022**.

BA-FY23-01

Mayor Nancy Harris

Those councilmembers voting in favor:

Charles Jamin Harkness, Post 1

Marline Thomas, Post 2

Kenneth Lamar Doss, Post 3

Manfred Graeder, Post 4

Greg Whitlock, Post 5

Those councilmembers voting in opposition:

ATTEST: _____
Teresa S. Lynn, City Clerk

**ORDINANCE
CITY OF DULUTH
DULUTH TAX ALLOCATION DISTRICT ADVISORY COMMITTEE**

WHEREAS, the City of Duluth and Gwinnett County Board of Commissioners executed an Intergovernmental Agreement (IGA) that allowed Gwinnett County tax increments in the computation of the Tax Allocation District; and

WHEREAS, the Mayor and Council approved the creation of an advisory committee to be populated by representatives from the City of Duluth, the Chair of Gwinnett County Board of Commissioners and the Gwinnett County Director of Planning; and

WHEREAS, the creation of the Duluth TAD Advisory Committee, herein after known as "DTADAC" will review all projects involving the expenditure of Tax Allocation Increments, and/or all issuances of TAD financing, prior to their consideration for approval by the Redevelopment Agency (City Council). The DTADAC shall be made up of five (5) regular members. Members shall include two (2) members of the Mayor & Council, the City Manager or his/her designee, the Chair of the Gwinnett County Commission or his/her designee and the Gwinnett County Director of Planning or his/her designee; and

NOW THEREFORE, the Mayor and Council of the City of Duluth hereby ordains that the following individuals be appointed as members of the Duluth Tax Allocation District Advisory Committee and be authorized to serve in their positions for four (4) year terms unless a majority vote of Council removes such member (s).

Appoint:

| | | |
|------------------------------|--------------------|-----------------------|
| Nancy Harris (Mayor) | Expires 07/11/2026 | Term begin date: 2014 |
| Greg Whitlock (City Council) | Expires 07/11/2026 | Term begin date: 2014 |
| James Riker (City Manager) | Expires 07/11/2026 | Term begin date: 2014 |

IT IS SO ORDAINED this 11th day of July, 2022.

Mayor Nancy Harris

Those councilmembers voting in favor:

Charles Jamin Harkness, Post 1

Marline Thomas, Post 2

Kenneth Lamar Doss, Post 3

Manfred Graeder, Post 4

Greg Whitlock, Post 5

Those councilmembers voting in opposition:

ATTEST: _____
Teresa S. Lynn, City Clerk

THE DESIGNATED LEGAL ORGAN FOR GWINNETT COUNTY, GEORGIA

Mail legal to:
Southern Community Newspaper, Inc.

Gwinnett Daily Post
P.O. Box 603
Lawrenceville, GA 30046
Attention: Legal Advertising

Telephone:
(770) 963-9205, Ext. 1161

Email address is:
legals@gwinnettdailypost.com
(text or word format)

Office Hours 10:00 a.m. to 4:00 p.m.,
Monday through Thursday (Closed Friday)

Southern Community Newspapers, Inc.

Gwinnett Daily Post Clayton News Daily
Rockdale Citizen Henry Daily Herald
Jackson Progress-Argus

LEGAL ADVERTISING DEADLINES THROUGH DECEMBER 2022

The deadline for legal advertising in the Wednesday Legal Section (other than Foreclosures and Tax Sales) is 3pm Tuesday of the previous week.

EARLY DEADLINES DUE TO HOLIDAYS ARE MARKED WITH AN *

PLEASE NOTIFY US IF YOU HAVE LATE ADS AND APPROX. HOW MANY MORE THAN A FEW. LATE FEE IS A \$100.00 FEE PER AD FOR 1ST 24 HOURS LATE ** AFTER 24 HOURS THE LATE FEE IS \$200.00

The deadline for Modifications, Cancellations or Early Pubs is **Tuesday (week prior) at 3pm** for the following week's publications. This deadline is only for changes to ads currently publishing or starting early (Early Pubs).

Foreclosures, Sheriff's Sales and Tax Sales are held on the first Tuesday of each month. Notices publish four consecutive weeks prior to the first Tuesday. Deadlines are below:

| MONTH | DEADLINES (NOON) | PUBLICATION DATES | SALE DATE |
|-----------|------------------|-------------------|--------------|
| JANUARY | *DEC 27 | JAN 5,12,19,26 | FEB 1, 2022 |
| FEBRUARY | JAN 24 | FEB 2,9,16,23 | MAR 1, 2022 |
| MARCH | FEB 28 | MAR 9,16,23,30 | APR 5, 2022 |
| APRIL | MAR 28 | APR 6,13,20,27 | MAY 3, 2022 |
| MAY | MAY 2 | MAY 11,18,25,6/1 | JUN 7, 2022 |
| JUNE | *MAY 27 | JUN 8,15,22,29 | JUL 5, 2022 |
| JULY | *JUN 24 | JUL 6,13,20,27 | AUG 2, 2022 |
| AUGUST | AUG 1 | AUG 10,17,24,31 | SEPT 6, 2022 |
| SEPTEMBER | *AUG 26 | SEPT 7,14,21,28 | OCT 4, 2022 |
| OCTOBER | SEPT 26 | OCT 5,12,19,26 | NOV 1, 2022 |
| NOVEMBER | OCT 31 | NOV 9,16,23,30 | DEC 6, 2022 |
| DECEMBER | *NOV 25 | DEC 7,14,21,28 | JAN 3, 2023 |

ADOPTION

IN THE SUPERIOR COURT OF SPALDING COUNTY STATE OF GEORGIA
In the Interest of **Charlie Belle Collins**, Petitioner of Adoption No. 22-10
Keith Jackson Green, Jr. For adoption of minor child:
NOTICE OF TERMINATION OF PARENTAL RIGHTS PROCEEDING

TO: Brandon Williams, purported biological father of C. B. Collins in 2018, last known address unknown and whereabouts unknown, and to anyone who might believe he is the father of the minor child named above.

Pursuant to O.C.G.A. §19-6-12, you are hereby notified that on the 19th day of April, 2022, a Petition for Adoption was filed for confirmation of relinquishment of parental rights of the biological father and full termination of parental claims and potential rights of the biological father, in the Superior Court of Spalding County, Georgia, Civil Action File No. 22-10 with regard to the minor child in this case. Petitioner's application alleges that the whereabouts of a purported biological father, Brandon Williams, were last known to be in Gwinnett County, GA, but also acknowledges that any other potential biological fathers are unknown and their current whereabouts are unknown.

and asks the Court to terminate the parental claims of any possible biological father with respect to the child so that an adoption may occur. Unless within thirty (30) days of the date of the first publication of this notice, you file: (1) a petition to legitimate this minor pursuant to O.C.G.A. §19-7-22; (2) a Petition for Adoption of the minor child in the Superior Court of Spalding County in Griffin, Georgia; and (3) a notice of the filing of the petition to legitimate to the person or persons who provided such notice to such biological father, you will lose all rights to the child and will neither receive notice of nor be entitled to object to the adoption of this child. You are advised that a hearing will be held in the Chamber of the Honorable Benjamin D. Coker, Judge of the Superior Court of Spalding County, at 9 o'clock A.M. on the 8th day of June 2022, to determine why the pro-se Petitioner should be granted.

CLERK OF SUPERIOR COURT
Spalding County, Georgia
Griffin Judicial Circuit
901-700-43
5/11,18,25,6/1,2022

ADOPTION

IN THE SUPERIOR COURT OF GWINNETT COUNTY STATE OF GEORGIA
ADoption FILE NO. 22-10
IN RE: Petition of Sade Smith for the Adoption of Nathan Smith

TO: LEBERT, who are hereby notified that the above styled action seeking the adoption of a female child, born to Charlotte Gabrielle Smith on 11/18/2018 in Atlanta, Georgia, is pending in the Superior Court of Spalding County in Griffin, Georgia, and (3) a notice of the filing of the petition to legitimate to the person or persons who provided such notice to such biological father, you will lose all rights to the child and will neither receive notice of nor be entitled to object to the adoption of this child. You are advised that a hearing will be held in the Chamber of the Honorable Benjamin D. Coker, Judge of the Superior Court of Spalding County, at 9 o'clock A.M. on the 8th day of June 2022, to determine why the pro-se Petitioner should be granted.

CLERK/Deputy Clerk/Spalding County Superior Court
901-700-43
5/18,25,6/1,2022

ADOPTION

IN THE SUPERIOR COURT OF SPALDING COUNTY STATE OF GEORGIA

IN RE: J.L.D., Male Minor Child
Female Minor Child
Bryon Newton Lawson, Adoption File No. 22-10

NOTICE OF PUBLICATION
TO: JENNIFER LEIGH DAVIS, DANIEL WILSON, JOHN DOE & JOHN JOE & OR ANY OTHER PERSON CLAIMING A PARENTAL INTEREST

A Petition for Adoption of Minor Children and Seeking to Terminate Parental Rights has been filed by Bryon Newton Lawson seeking a non-religious adoption for the minor children, J.L.D., a male child, born in 2009, and J.E.D., a female child, born in 2012, in the Superior Court of Spalding County, Georgia, on the 2nd day of May, 2022. A copy of said Petition can be obtained from the Clerk of Spalding County, Georgia, whose office is located at the Spalding County Courthouse, 122 East Solomon Street, Griffin, Georgia 30223.

By reason of an order for service of summons by publication entered on the 3rd day of May, 2022, as a putative father, you are hereby commanded to file with the Clerk of Superior Court of Spalding County, Georgia, and serve upon the Petitioner's Attorney, Michael W. Ogletree, Sullivan & Ogletree, P.C., 743 South Hill Street, Griffin, Georgia 30224, a Petition to Legitimate with an Acknowledgment of Legitimation within 30 (thirty) days of the date of said order for service by publication or you shall lose all rights to said child(ren) and you will receive no notice nor be entitled to object to the adoption, as well as an Answer to the Petition.

As the natural mother, you are hereby commanded to file with the Clerk of Superior Court of Spalding County, Georgia, and serve upon the Petitioner's Attorney, Michael W. Ogletree, Sullivan & Ogletree, P.C., 743 South Hill Street, Griffin, Georgia 30223, a Petition to Legitimate with an Acknowledgment of Legitimation within 30 (thirty) days of the date of said order for service by publication or you shall lose all rights to said child(ren) and you will receive no notice nor be entitled to object to the adoption, as well as an Answer to the Petition.

ADoption FILE NO. 22-10
IN RE: THE PETITION OF JEREMY J. OSBORNE FOR THE ADOPTION OF T.D.L., A MALE CHILD.

Notice of Publication to: Keith Thomas Latner, the biological father of T.D.L., a male child who was born in Seminole County, Georgia, on January 24, 2022.

You have been named as the biological father of the above identified child. A Petition for Stepparent Adoption of the minor child, T.D.L., and to Terminate Parental Rights of Keith Thomas Latner, having been filed in the Superior Court of Spalding County, Georgia, on the 2nd day of May, 2022. A copy of said Petition can be obtained from the Clerk of Spalding County, Georgia, whose office is located at the Spalding County Courthouse, 122 East Solomon Street, Griffin, Georgia 30223.

By reason of an order for service of summons by publication entered on the 3rd day of May, 2022, as a putative father, you are hereby commanded to file with the Clerk of Superior Court of Spalding County, Georgia, and serve upon the Petitioner's Attorney, Michael W. Ogletree, Sullivan & Ogletree, P.C., 743 South Hill Street, Griffin, Georgia 30224, a Petition to Legitimate with an Acknowledgment of Legitimation within 30 (thirty) days of the date of said order for service by publication or you shall lose all rights to said child(ren) and you will receive no notice nor be entitled to object to the adoption, as well as an Answer to the Petition.

As the natural mother, you are hereby commanded to file with the Clerk of Superior Court of Spalding County, Georgia, and serve upon the Petitioner's Attorney, Michael W. Ogletree, Sullivan & Ogletree, P.C., 743 South Hill Street, Griffin, Georgia 30223, a Petition to Legitimate with an Acknowledgment of Legitimation within 30 (thirty) days of the date of said order for service by publication or you shall lose all rights to said child(ren) and you will receive no notice nor be entitled to object to the adoption, as well as an Answer to the Petition.

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ADOPTION

Georgia 30224, an Answer to the Petition.

You are further required to file any and all business sides and to be and appear before the Superior Court of Spalding County, Georgia, on the 14th day of July, 2022, at 9:00 a.m., then and there to make and to show cause why the Petition for Adoption of the minor child and Termination of Rights to said children should not be dealt with according to the provisions of the Code of Georgia Annotated, by reason of an order for service of summons by publication.

WITNESS THE HONORABLE BENJAMIN D. COKER, Judge of the Superior Court, in and for the Griffin Judicial Circuit, this 3rd day of May, 2022.

CLERK OF SUPERIOR COURT
Spalding County, Georgia
Griffin Judicial Circuit
901-700-43
5/11,18,25,6/1,2022

ADOPTION

IN THE SUPERIOR COURT OF GWINNETT COUNTY STATE OF GEORGIA
ADoption FILE NO. 22-10
IN RE: Petition of Sade Smith for the Adoption of Nathan Smith

TO: LEBERT, who are hereby notified that the above styled action seeking the adoption of a female child, born to Charlotte Gabrielle Smith on 11/18/2018 in Atlanta, Georgia, is pending in the Superior Court of Spalding County in Griffin, Georgia, and (3) a notice of the filing of the petition to legitimate to the person or persons who provided such notice to such biological father, you will lose all rights to the child and will neither receive notice of nor be entitled to object to the adoption of this child. You are advised that a hearing will be held in the Chamber of the Honorable Benjamin D. Coker, Judge of the Superior Court of Spalding County, at 9 o'clock A.M. on the 8th day of June 2022, to determine why the pro-se Petitioner should be granted.

CLERK/Deputy Clerk/Spalding County Superior Court
901-700-43
5/18,25,6/1,2022

ADOPTION

IN THE SUPERIOR COURT OF SPALDING COUNTY STATE OF GEORGIA

IN RE: J.L.D., Male Minor Child
Female Minor Child
Bryon Newton Lawson, Adoption File No. 22-10

NOTICE OF PUBLICATION
TO: JENNIFER LEIGH DAVIS, DANIEL WILSON, JOHN DOE & JOHN JOE & OR ANY OTHER PERSON CLAIMING A PARENTAL INTEREST

A Petition for Adoption of Minor Children and Seeking to Terminate Parental Rights has been filed by Bryon Newton Lawson seeking a non-religious adoption for the minor children, J.L.D., a male child, born in 2009, and J.E.D., a female child, born in 2012, in the Superior Court of Spalding County, Georgia, on the 2nd day of May, 2022. A copy of said Petition can be obtained from the Clerk of Spalding County, Georgia, whose office is located at the Spalding County Courthouse, 122 East Solomon Street, Griffin, Georgia 30223.

By reason of an order for service of summons by publication entered on the 3rd day of May, 2022, as a putative father, you are hereby commanded to file with the Clerk of Superior Court of Spalding County, Georgia, and serve upon the Petitioner's Attorney, Michael W. Ogletree, Sullivan & Ogletree, P.C., 743 South Hill Street, Griffin, Georgia 30224, a Petition to Legitimate with an Acknowledgment of Legitimation within 30 (thirty) days of the date of said order for service by publication or you shall lose all rights to said child(ren) and you will receive no notice nor be entitled to object to the adoption, as well as an Answer to the Petition.

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ADOPTION

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WITNESS THE HONORABLE BENJAMIN D. COKER, Judge of the Superior Court, in and for the Griffin Judicial Circuit, this 3rd day of May, 2022.

CLERK OF SUPERIOR COURT
Spalding County, Georgia
Griffin Judicial Circuit
901-700-43
5/11,18,25,6/1,2022

ADOPTION

IN THE SUPERIOR COURT OF GWINNETT COUNTY STATE OF GEORGIA
ADoption FILE NO. 22-10
IN RE: Petition of Sade Smith for the Adoption of Nathan Smith

TO: LEBERT, who are hereby notified that the above styled action seeking the adoption of a female child, born to Charlotte Gabrielle Smith on 11/18/2018 in Atlanta, Georgia, is pending in the Superior Court of Spalding County in Griffin, Georgia, and (3) a notice of the filing of the petition to legitimate to the person or persons who provided such notice to such biological father, you will lose all rights to the child and will neither receive notice of nor be entitled to object to the adoption of this child. You are advised that a hearing will be held in the Chamber of the Honorable Benjamin D. Coker, Judge of the Superior Court of Spalding County, at 9 o'clock A.M. on the 8th day of June 2022, to determine why the pro-se Petitioner should be granted.

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ADOPTION

IN THE SUPERIOR COURT OF SPALDING COUNTY STATE OF GEORGIA

IN RE: J.L.D., Male Minor Child
Female Minor Child
Bryon Newton Lawson, Adoption File No. 22-10

NOTICE OF PUBLICATION
TO: JENNIFER LEIGH DAVIS, DANIEL WILSON, JOHN DOE & JOHN JOE & OR ANY OTHER PERSON CLAIMING A PARENTAL INTEREST

A Petition for Adoption of Minor Children and Seeking to Terminate Parental Rights has been filed by Bryon Newton Lawson seeking a non-religious adoption for the minor children, J.L.D., a male child, born in 2009, and J.E.D., a female child, born in 2012, in the Superior Court of Spalding County, Georgia, on the 2nd day of May, 2022. A copy of said Petition can be obtained from the Clerk of Spalding County, Georgia, whose office is located at the Spalding County Courthouse, 122 East Solomon Street, Griffin, Georgia 30223.

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**ORDINANCE
TO AMEND THE CITY OF DULUTH
2023 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2023 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2023 fiscal year as follows:

| | |
|-----------------------------------|-------------------|
| Total Revenues: | <u>65,231,879</u> |
| Operations Expenditures: | <u>34,463,187</u> |
| Capital Improvement Expenditures: | <u>30,768,692</u> |
| Total Expenditures: | <u>65,231,879</u> |

For a balanced budget in compliance with the laws of the State of Georgia.

WHEREAS the City of Duluth has awarded the 2022 LMIG Full Depth Reclamation & Paving contract to Stewart Brothers, with contingency, in an amount not to exceed \$2,560,630.49; and

WHEREAS funding for the contract of \$2,560,631 will come from unallocated 2017 SPLOST Transportation funds; and

WHEREAS it is requested \$2,560,631 in unallocated 2017 SPLOST Transportation funds be added to the Transportation/Infrastructure Improvements – Paved Streets – Repairs & Maintenance – Streets & Sidewalks line item, including associated transfers; and

NOW THEREFORE, the City of Duluth 2023 Fiscal Year Budget is amended as follows:

| | |
|------------------------------------|-------------------|
| Total Revenues & Prior Yr Reserves | <u>67,792,510</u> |
| Operations Expenditures: | <u>34,463,187</u> |
| Capital Improvement Expenditures: | <u>33,329,323</u> |
| Total Expenditures: | <u>67,792,510</u> |

IT IS SO ORDAINED this _____ day of _____, **2022**.

Mayor Nancy Harris

Those councilmembers voting in favor:

Charles Jamin Harkness, Post 1

Marline Thomas, Post 2

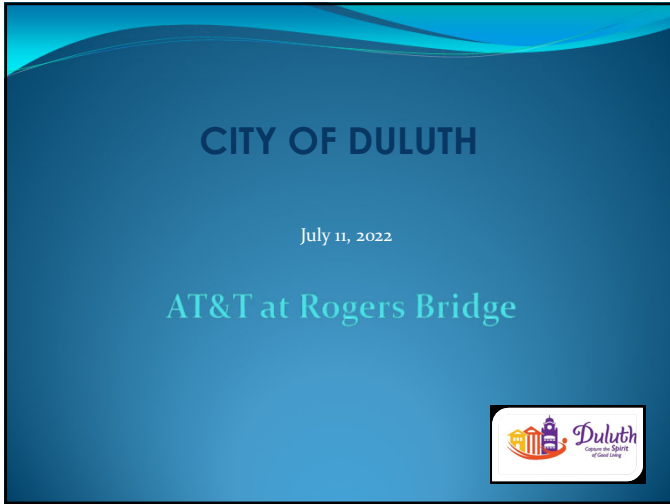
Kenneth Lamar Doss, Post 3

Manfred Graeder, Post 4

Greg Whitlock, Post 5

Those councilmembers voting in opposition:

ATTEST: _____
Teresa S. Lynn, City Clerk



1

Pre-construction

- AT&T has aerial facilities in Rogers Bridge Park (along the road) and over the River.
- During design, ATT requested several ducts be placed under the bridge deck for their future use.
 - This is their right since they currently exist, and the law requires we accommodate existing utilities whenever federal funds are used.
 - The bulk of the cost is borne by the federal grant.
- Prior to construction, ATT shifted one pole (and the attached lines) at no cost to us, to create a safer construction zone.
 - This was their obligation as the project is a transportation infrastructure improvement within our right of way.

2



3



4

Existing Conditions



5

During Construction

- At this time, it has become clear that the ATT does not intend to put the remaining aerial River crossing into the new ducts under the bridge.
 - They are not legally required to do so and have chosen to leave the ducts for future use.
- Upon our request, ATT developed a cost proposal to move the lines underground from the general area of the Trailhead building to, and including, the river crossing.
 - This will require additional conduit, the use of the duct bank we are providing, and a lot of costly splicing.
 - While the conduit can be installed now, the splicing and removal of the aerial crossing cannot be done until the bridge is completed.
 - ATT has to be able to run the lines, shift the service over, and remove the old lines without being in the way of our contractor.

6

The Need and the Cost

- The goal of under-grounding is two fold:
 - Removes the aerial crossing from the viewshed,
 - Allows flexibility in placement of the large piece of public art.
- ATT estimates cost of undergrounding to be about \$100k.
- As utility relocations are not a permitted cost under our federal grant, it would have to be paid for using local money.
- The current remaining local match money is earmarked for:
 - Paying our on-site construction engineer/inspector (CE&I) staff
 - Covering our portions of contract overages

7

Per the IGA

- The IGA for construction of the Bridge included Duluth, Johns Creek, Gwinnett, and Fulton.
 - Each pitched in a match contribution of \$350k.
 - Match money covers:
 - Ga Power relocation prior to construction
 - 20% match to the federal grant
 - Contingency (which is spoken for)
- Per the IGA – change orders (CO) requiring budget in excess of the original contributions require written approval from each party.
- Putting ATT underground benefits Duluth most - It's unlikely the other three will approve the CO.
- And if they do, Duluth will still have to front the money to get the work done in a timely fashion as a CO will take a long time to process.

8

Options

1. Set aside \$100,000 for use in undergrounding ATT lines, and use the amount needed after contingency is spent. Remaining funds return to original source.
2. Proceed with No. 1 above and attempt to get funding partners to kick in their 25% shares of any monies spent.
3. Leave ATT line overhead.

9

Discussion/Questions?
Does Council want to
move forward with
setting the money
aside?



10