

CITY OF CHAMBLEE, GA.
MINUTES
REGULAR COUNCIL MEETING
JULY 21, 2009
7:30 P.M.

PRESENT: Mayor Clarkson, Council Members Wedge, Robson, Hogan, Zanger and Taylor

Mayor Clarkson called the meeting to order at 7:35 P.M.

Presentation of the 2008 Audit

Stephen Wilcox of Wilcox and Bivings, P.C. presented the 2008 Audited Basic Financial Statements for the City. There were no questions or discussion by the Council. Motion to approve the 2008 Audit as submitted made by Councilmember Wedge, seconded by Councilmember Robson and carried unanimously.

Approval of Minutes: June 11, 2009 Millege Rate Public Hearing, June 11, 2009 Work Session, and June 16, 2009, Council Meeting Minutes.

Motion to approve Minutes as submitted made by Councilmember Hogan, seconded by Councilmember Zanger and carried unanimously.

Staff Action Items - City Clerk

Appointment of Municipal Elections Superintendent

Motion to appoint Fran Diedrich as Municipal Elections Superintendent made by Councilmember Robson, seconded by Councilmember Wedge and carried unanimously.

Appointment of Pension Committee Secretary

Motion to appoint Fran Diedrich as Pension Committee Secretary made by Councilmember Hogan, seconded by Councilmember Robson and carried unanimously.

Approval of Job Descriptions

Motion to approve job descriptions as submitted with the exception that any references to the title City Clerk/Human Resources Director be changed to City Clerk made by Councilmember Hogan, seconded by Councilmember Wedge and carried unanimously.

5256 Peachtree Lofts - 5256 Peachtree Road - Requesting variances to allow a master sign package, a dumpster in the side yard and a loading space facing a public road. Motion to approve all variance requests as submitted with the condition that this location be listed as 5256 Peachtree Road made by Councilmember Hogan, seconded by Councilmember Robson and carried unanimously.

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Hardee Avenue Office Development – 3360 & 3368 Hardee Avenue - Requesting variances to allow a residential unit on the ground floor, reduce parking requirements and have more than allowed square footage for the NC-2 zoning district. There was discussion by the Mayor and Council. Motion to approve request as submitted with the exception of a residential unit on the first floor made by Councilmember Hogan. Motion died for lack of a second. There was further discussion. Motion to approve request for all variance requests as submitted made by Councilmember Wedge, seconded by Councilmember Taylor motion carried with Council members Wedge, Robson, Taylor, and Zanger voting in favor; Councilmember Hogan opposed.

Request to amend the schedule of City Engineering Fees and Building Permits. There was no discussion. Motion to approve schedule as submitted by staff made by Councilmember Hogan, seconded by Councilmember Zanger and carried unanimously.

Resolution to appoint authorized individuals to deposit and/or withdrawal of funds from Georgia Fund 1.

After discussion by the Mayor and Council a Motion to authorize a resolution allowing the City Manager, Finance Director, Mayor and Mayor Pro-Tem to sign for deposit/withdrawal of funds from Georgia Fund 1 made by Councilmember Hogan, seconded by Councilmember Taylor and carried unanimously.

Request to approve Edward Byrne Memorial Justice Assistance Grant Application for \$14,283 to purchase 27 bulletproof vests. Motion to approve grant as submitted by staff made by Councilmember Taylor, seconded by Councilmember Wedge and carried unanimously.

Staff Discussion – Development Director

Discussion reference draft language on Farmer's Market and/or Special Events. Motion to table discussion until the August Work Session and direct staff to draft policy language for presentation to the Council made by Councilmember Robson, seconded by Councilmember Zanger and carried unanimously.

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Discussion of Shooting Range as a Permitted Accessory Use

After discussion by Council a Motion directing the City Manager to assign the Development Director, working with the City Attorney, to draft language allowing a Shooting Range as a Permitted Accessory Use in the City for presentation during the next Work Session made by Councilmember Robson, seconded by Councilmember Taylor motion carried with Council members Robson, Taylor, Hogan and Zanger voting in favor; Councilmember Wedge opposed.

Mayor/Council Discussion – Council Member Hogan

Discussion on Tree Bank Policy

Motion to direct staff to draft policy for use of the Tree Bank to be presented to Council during the next Work Session made by Councilmember Hogan, seconded by Councilmember Taylor and carried unanimously.

Request for City Funding “Taste of Chamblee”

Motion to approve an amount not to exceed \$3,530 for City services at the Taste of Chamblee event made by Councilmember Hogan, seconded by Councilmember Robson and carried unanimously.

Discussion of Community Service as an option by the City’s Municipal Court.

Motion to direct staff to comprise a pro/con list for the City of Chamblee to be brought for presentation to Council during the Work Session in September 2009 made by Councilmember Zanger, seconded by Councilmember Taylor and carried unanimously.

Reading of Ordinances – City Attorney

Second Reading of an Ordinance to Amend Chapter 24, Cable Service and Other Telecommunications Services by City Attorney

There was no discussion by Council. Motion to adopt ordinance as read made by Councilmember Wedge, seconded by Councilmember Taylor and carried unanimously.

First reading of an Ordinance to Amend the Sign Ordinance by City Attorney


First Reading of an Ordinance to Amend the City Charter to add position of Finance Director by City Attorney.

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Citizen Comment: No citizens chose to comment.

Mayor Clarkson offered condolences on behalf of the Council to Harold Bowers on the death of his mother. The Mayor also expressed appreciation for Mr. Bower's interest in the City of Chamblee as evidenced by his attendance of almost every Council Meeting.

There being no further business, Councilmember Wedge made a motion to adjourn at 8:20 p.m., seconded by Councilmember Taylor and carried unanimously.



R. ERIC CLARKSON – MAYOR



FRAN DIEDRICH – CITY CLERK

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF CHAMBLEE, GEORGIA, CHAPTER 24, CABLE SERVICES AND OTHER TELECOMMUNICATION SERVICES, TO ESTABLISH DUE COMPENSATION APPLICABLE TO ANY TELEGRAPH OR TELEPHONE COMPANY CHARTERED BY THE LAWS OF THE STATE OF GEORGIA OR ANY OTHER STATE; TO PROVIDE FOR CODIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE AND FOR ALL OTHER LAWFUL PURPOSES

WHEREAS, the City of Chamblee is authorized pursuant to O.C.G.A. § 46-5-1 et seq. as amended in 2008 by Senate Bill 379 (the "amended law") to collect due compensation from telegraph or telephone companies that maintain and operate lines and facilities occupying municipal streets and rights of way equal to no more than 3 percent of actual recurring local service revenues received by such companies from their retail, end user customers located within the corporate boundaries of the city; and

WHEREAS, if a company does not have retail, end user customers located within the city's municipal boundaries, the payment by such company to a municipal authority in accordance with the rates set by regulations promulgated by the Department of Transportation for the use of its rights of way shall be considered the payment of due compensation; and

WHEREAS, under the amended law, existing franchise agreements and occupational license tax payments greater than 3% of actual recurring local service revenues are grandfathered until the expiration of the franchise agreement or December 31, 2012, whichever is earlier, and payments thereafter will be at the statutory rate.

PART I

Section 1

BE IT ORDAINED AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CHAMBLEE that the Code of Ordinances of the City of Chamblee, Chapter 24, is hereby amended by adding thereto an Article III, which Article III shall read as follows:

ARTICLE III. DUE COMPENSATION FROM TELEPHONE COMPANIES WITH END USER RETAIL CUSTOMERS WITHIN THE CITY.

- (a) The city hereby requires due compensation of 3 percent of actual recurring local service revenues, as defined in paragraph (8) and (9) of subsection (b) of Section 46-5-1 of the Official Code of Georgia Annotated; provided, however, that any company which pays in excess of 3 percent of actual recurring local service revenues pursuant

to an existing franchise agreement shall continue to pay in accordance with the agreement until the expiration of the franchise agreement or December 31, 2012, whichever occurs first; and any company which pays in excess of 3 percent of actual recurring local service revenues in accordance with an occupational license tax arrangement shall continue to pay in accordance with such payment schedule until December 31, 2012.

- (b) Regarding any telephone company that does not have retail, end user customers located within the city's municipal boundaries, the payment by such company to a municipal authority in accordance with the rates set by regulations promulgated by the Department of Transportation for the use of its rights of way shall be considered the payment of due compensation.

Section 2

The Code of Ordinances of the City of Chamblee, Chapter 24 is further amended by adding thereto an Article IV which Article IV shall read as follows:

ARTICLE IV. AUTHORIZED DESIGNEE.

The City Manager/or his designee, shall, on behalf of the city, exercise day-to-day administrative duties necessary to fulfill the regulatory authority of the city under O.C.G.A. § 46-5-1, et seq. and shall perform the following duties:

- (a) Review application information submitted by a telephone company to the city and, if an application is incomplete, notify the telegraph or telephone company within 15 business days of the receipt of such application, identifying in such notice all application deficiencies.
- (b) Report the receipt of a completed application to the City Council within 60 calendar days of the receipt of such completed application.
- (c) Review payments of due compensation submitted by the company to ensure compliance with the provisions of the amended law and this ordinance.
- (d) Provide a coordination function between a telephone company and all city departments as to any matter relating to the amended law and this ordinance.
- (e) Arrange and evaluate, no more than once a year, a comprehensive review of the records of a company which is reasonably related to the calculation and payment of due compensation.
- (f) Provide to all telegraph and telephone companies located in its rights of way written notice of annexations and changes in municipal corporate boundaries.

Section 3

The preamble to this ordinance is hereby incorporated into this ordinance as if set out fully

herein.

Section 4

The sections, paragraphs, sentences, clauses or phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.


Section 5

All ordinances and parts of ordinances in conflict herewith or in conflict with O.C.G.A. § 46-5-1 et seq. are hereby expressly repealed.

PART II

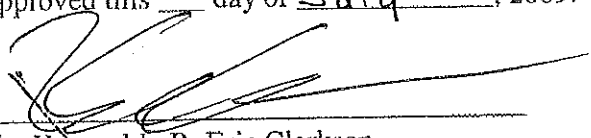
It is hereby declared to be the intention of the Mayor and City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

The foregoing was proposed by Council member Wedge with a motion that the same be adopted. Said motion was seconded by Council member Taylor. Same was then put to a vote and 5 Council members voted in favor of the Ordinance and 0 Council members voted against the Ordinance. Said motion was thereupon declared passed and duly adopted this 21st day of July, 2009.



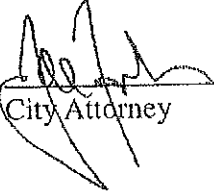
Fran Diedrich
City Clerk, City of Chamblee, Georgia

Approved this _____ day of July, 2009.



The Honorable R. Eric Clarkson
Mayor, City of Chamblee, Georgia

Approved as to form:



City Attorney

First reading: 6/16/09

Second reading: 7/21/09