

**CITY OF DACULA**  
442 Harbins Rd  
P. O. Box 400  
Dacula, GA, 30019

**COUNCIL MEETING**

**MINUTES**

**March 3, 2011**

**I. CALL TO ORDER AND ROLL CALL OF THE MEMBERS:**

Mayor Jimmy Wilbanks called the March 3, 2011 Council Meeting to order at 7:00 P.M. and roll call of the members was taken. A quorum was present. Mayor Wilbanks asked all present to turn off any cell phones or set them to silent. Mayor Wilbanks welcomed everyone to the Council's Regular Meeting for March.

**Council Members Present:**

Jimmy Wilbanks, Mayor  
Wendell Holcombe, Councilman  
Gregory Reeves, Councilman  
Susan Robinson, Councilwoman  
Tim Montgomery, Councilman

**City Staff Present:**

Jim Osborn, City Administrator  
Kay Partain, City Accounting Clerk  
Joey Murphy, City Planner  
Dennis Still, City Attorney  
Reed Miller, City Marshal  
Steve Cline, City Marshal  
Mike Moon, Public Works Supervisor

**City Staff Absent:**

Wayne Holcombe, City Building Inspector

**Visitors**

*See Attached.*

**II. INVOCATION**

Invocation was given by Councilman Wendell Holcombe.

**III. PLEDGE OF ALLEGIANCE**

Mayor Wilbanks and boy scouts with Boy Scout Troop # 503 led the recitation of the Pledge of Allegiance to the Flag of the United States.

**IV. MINUTES**

***Approval of the Minutes from the Regular Council Meeting for February 3, 2011 and Called Council Meeting of February 24, 2011.***

Mayor Wilbanks asked for a motion to approve the minutes for the February 3, 2011 Regular Council Meeting.

Motion made by Councilman Gregory Reeves to approve the Minutes of *February 3, 2011 Regular Council Meeting* as presented. Motion was seconded by Councilwoman Susan Robinson. Motion was unanimously approved with a 4-0 vote.

Mayor Wilbanks asked for a motion to approve the minutes for the Called Council Meeting of February 24, 2011.

Motion made by Councilman Tim Montgomery to approve the Minutes of the *February 24, 2011 Called Council Meeting* as presented. Motion was seconded by Councilwoman Susan Robinson. Motion was unanimously approved with a 4-0 vote

**V. OLD BUSINESS:**

None.

**VI. NEW BUSINESS:**

***1. Recognize Beauty Contest Winners.***

Mayor Wilbanks asked each girl to come forward to be recognized. Ms. Holly Hawkins is 2010 Miss Sophomore Dacula; Ms. Jessy Mailloux is 2010 Junior Dacula; and Ms. Megan Chesne is 2010 Miss Dacula Sweetheart. Mayor Wilbanks read portions of each girl's biographies and stated the City wants to recognize these young ladies as they are mentors for other students. Mayor Wilbanks asked that a round of applause be given for all the young ladies.

Mayor Wilbanks stated that the City is going to change the order of the agenda for tonight and move Section VII. PUBLIC COMMENTS to be heard at this time.

**VII. PUBIC COMMENTS:**

Mayor Wilbanks stated the City has received a request to speak from Ms. Denise Griffin, Lawrenceville, GA 30045. Mayor stated that Ms. Griffin has ten minutes in which to speak.

Ms. Denise Griffin spoke on behalf of Mr. Sam Hinton and his family who is opposed to the possible condemnation of his property listed in VI. New Business Item #2.

**VI. NEW BUSINESS: continued**

**2. *Adopt a resolution approving the exercise of eminent domain to condemn the property located in Land Lot 302A of the 5<sup>th</sup> District and Parcel Number 024A for the purposes of a public park.***

Mayor Wilbanks commented briefly about eminent domain, the purpose and use and why it is being considered tonight. The Council has attempted to negotiate a price for the property so that the City wouldn't have to use eminent domain. Federal law, State law and City law gives the City the power to use eminent domain. Eminent domain requires the City to compensate for any condemnation of property and the courts have decided fair market value is just compensation. The City is trying to follow the City's Comprehensive Plan in which the plan recommends a park in the downtown area.

Mayor Wilbanks asked the Council if they had any comments.

Councilwoman Susan Robinson directed a question to Ms. Griffin, the City made an offer to Mr. Hinton, was there not a counter offer made to the City from Mr. Hinton for \$76,000.00? The City obtained an appraisal of the property of \$43,000.00 and this was offered to Mr. Hinton.

Ms. Griffin stated that Mr. Hinton does not want to sell; that amount was given under duress.

Mayor Wilbanks read the resolution to everyone present and asked for a motion.

Motion made by Councilwoman Susan Robinson to approve the exercise of eminent domain to condemn the property located in Land Lot 302A of the 5<sup>th</sup> District and Parcel Number 024A for the purpose of a public park. Motion was seconded by Councilman Wendell Holcombe.

Mayor Wilbanks asked if there were any more discussion by the Council.

Councilman Tim Montgomery stated that he had studied this item extensively. There is a way to handle things as neighbors, friends and family. This (*eminent domain*) may not be the way for this to be handled. The original purpose of obtaining this property downtown is improving the downtown atmosphere, making it more conducive to business and trying to improve the economics environment of the downtown area. The City wants to demolish the old block building downtown as it is eyesore and detracts from all the improvements that have recently been done. Citizens in Dacula have come to the Council asking the City to clean up this area. A park will improve the downtown look. The property owned by Mr. Hinton is very small, less than 1/10 of acre. With property setbacks realistically this property would be undevelopable.

Councilman Montgomery suggested that the City possibly table this item and obtain permission from Mr. Hinton to get on his property so that the old brick building can be demolished and leave this area as open green space, although a park as designed would be a benefit to the City. The City would need permission to have right-of-way on Mr. Hinton's property so that this area can be cleaned up.

Mr. Hinton at this time asked to speak. Mr. Hinton stated that no one has contacted him from the Council or the administration of the City to obtain right-of-way on his property in order to tear the old block building down. Mr. Hinton stated that personally, he is against having the old block building torn down; it is of historical value. Mr. Hinton stated that he has no problem with the City accessing a right of way across his property in order to tear the building down.

Councilman Tim Montgomery made a motion to table this item pending further negotiation. (*Per Dennis Still, City Attorney, this motion takes precedence over the motion already on the floor, if there is second.*) There was not a second to Councilman Montgomery's motion. Motion failed due to a lack of a second.

As stated before a motion was made by Councilwoman Susan Robinson to approve the exercise of eminent domain to condemn the property located in Land Lot 302A of the 5<sup>th</sup> District and Parcel Number 024A for the purpose of a public park. The motion was seconded by Councilman Wendell Holcombe.

Councilwoman Susan Robinson and Councilman Wendell Holcombe voted in favor. Councilman Tim Montgomery and Councilman Gregory Reeves voted in opposition. As a result of a tie, Mayor Wilbanks voted in order to break the tie; Mayor Wilbanks voted in opposition. Motion failed with a 3-2 vote.

**3. *Authorize the City to engineer plans for 2<sup>nd</sup> Avenue two-way entrance at Dacula Road.***

Mayor Wilbanks stated that this item needs further study and asked for a motion to table.

Motion made by Councilman Gregory Reeves to table Item # 3. Authorize the City to engineer plans for 2<sup>nd</sup> Avenue two-way entrance at Dacula Road. Motion was seconded by Councilwoman Susan Robinson. Motion passed unanimously with a 4-0 vote.

**4. *Authorize the City to purchase a leaf/chipper truck for street department.***

Mayor Wilbanks stated that the City has a 25 year old truck that is broken down. Mayor Wilbanks stated that he was not satisfied with any of the bids the City received for a leaf/chipper truck and asked for a motion to table.

Motion made by Councilwoman Susan Robinson to table the purchase of a leaf/chipper truck for the street department. Motion was seconded by Councilman Gregory Reeves. Motion passed unanimously with a 4-0 vote.

**5. *Adopt a Resolution to partner with the Georgia Department of Revenue to ensure sales tax collection from City of Dacula Businesses.***

Mayor Wilbanks stated that GMA conducted a study and as a result, they learned that there is not enough sales and use tax getting to the State of Georgia. Mayor Wilbanks asked for a motion.

Motion made by Councilman Gregory Reeves to adopt a resolution to partner with the Georgia Department of Revenue to ensure sales tax collection from City of Dacula Businesses.

Motion was seconded by Councilman Tim Montgomery. Motion passed unanimously with a 4-0 vote.

**6. *Mayor and Council Member Comments.***

Mayor Wilbanks asked each of the Councilmembers if they had any further questions or comments.

Councilman Tim Montgomery commented about the gazebo; as it was stated the railroad made the City tear down the gazebo as it was on CSX railroad property. Councilman Montgomery stated this gazebo was dedicated when it was built and he has strong feelings about things being dedicated. The gazebo needs to be replaced.

Mr. Hinton stated former Councilman James Williams was a friend of his and he had the utmost respect for Councilman Williams. Mr. Hinton stated that he thought it was admirable that the City wanted to rebuild the gazebo and rededicate it to Councilman James Williams' memory. Mr. Hinton asked to let him consult with his attorney in order to negotiate this right of way permission properly.

The Council did not have any further questions or comments.

Mayor Wilbanks stated that the City had to tear down the old gazebo as it was on the CSX railroad property. The Council years ago was given permission from CSX railroad to build the gazebo. CSX railroad actually owns one third of Second Ave.

**7. *City Administrator Comments.***

Mayor Wilbanks asked Jim Osborn, City Administrator if he had any comments.

Mr. Osborn stated none.

**8. *City Attorney Comments.***

Mayor Wilbanks asked Dennis Still, City Attorney if he had any comments.

Mr. Still stated none.

**9. *City Marshal Comments.***

Mayor Wilbanks asked Reed Miller, City Marshal and Steve Cline, City Marshal if either had any comments.

Marshal Miller and Cline stated none.

**10. *Public Works Supervisor Comments.***

Mayor Wilbanks asked Mike Moon, Public Works Superintendent if he had any comments.

Mr. Moon stated none.

**11. City Planner Comments.**

Mayor Wilbanks asked Joey Murphy, City Planner if he had any comments.

Mr. Murphy stated none.

**12. Gwinnett County Police Comments.**

Mayor Wilbanks asked Lt. Spell, Gwinnett County Police if he had any comments.

Lt. Spell stated none.

**VII. PUBLIC COMMENTS: (See above for public comments.)**

**VIII. EXECUTIVE SESSION: Legal/Personnel Matters**

Mayor Wilbanks stated there is a need for a short executive session to discuss personnel/legal matters. Mayor Wilbanks asked for a motion.

Motion was made by Councilman Gregory Reeves to go into Executive Session. Motion was seconded by Councilman Tim Montgomery. Motion passed unanimously with a 4-0 vote.

The Mayor and Council left the Council Chambers to the Mayor's Office for an Executive Session.

Motion was made by Councilman Gregory Reeves to come out of Executive Session. Motion was seconded by Councilwoman Susan Robinson. Motion passed unanimously with a 4-0 vote.

Mayor and Council returned to the Council Chambers.

Motion made by Councilman Gregory Reeves to reconvene the regular Council Meeting. Motion was seconded by Councilman Tim Montgomery. Motion passed unanimously with a 4-0 vote.

Mayor Wilbanks stated there was no action taken at this time on the personnel/legal matter in the executive session that was discussed.

**IX. ADJOURNMENT:**

Mayor Wilbanks asked for a motion to adjourn the meeting.

Motion made by Councilman Gregory Reeves to adjourn the meeting. Motion was seconded by Councilman Tim Montgomery. The motion passed unanimously with 4-0 vote. The meeting was adjourned.

Minutes approved \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature