

**MINUTES
CITY COUNCIL REGULAR MEETING
APRIL 13, 2009
7:00 P.M.**

CALL THE MEETING TO ORDER: Mayor Cox called the meeting to order at 7:00 p.m.

ROLL CALL: Those present included Mayor Cox, Council Members Jonathan Cox, Mike Wilson, Linda Grant, and Mike Sosebee. Staff present included Dana Miles, Kim Cornelison, and Steve Holder.

INVOCATION AND PLEDGE: Invocation was led by Dana Miles, followed by the pledge.

APPROVAL OF MINUTES:

Council unanimously approved the minutes from the regular meeting held on March 2, 2009; motion by Linda Grant, second by Mike Wilson.

Council unanimously approved the minutes from the work session held on March 16, 2009; motion by Linda Grant, second by Jonathan Cox.

OLD BUSINESS:

ZA-11-08-1763: Jeremy Porter has requested a Zoning Map Amendment for 152.139 acres of land off Duck Thurmond Road, TMP 070-049. Current zoning is R-1; the applicant has requested a rezoning of CIR (Restricted Industrial District) for the proposed country club motorsports complex.

Mayor Cox called on the council asking for any comments or questions. There being none, the Mayor called for a motion at the pleasure of the council. Mike Sosebee made a motion to approve the rezoning request incorporating the staff recommended stipulations which were read in to the minutes and are attached as Exhibit "A". Mike Wilson seconded the motion; the motion carried unanimously.

Mayor Cox called for a 15 minute recess to allow the media and general public the opportunity to leave the meeting without interrupting the remainder of the business to be conducted at the meeting.

The meeting reassembled at 7:35 p.m.

NEW BUSINESS:

Proclamation setting April as Confederate History Month: The Clerk read the proclamation in to the minutes and presented it to Michael Reuter and fellow members of Camp # 2135; Concord Rangers, Sons of Confederate Veterans. Proclamation is attached as Exhibit "B". Mr. Reuter invited the council to attend the Confederate Memorial Service, Saturday, April 25th, 9 a.m. at Bethel Baptist Church.

Proclamation in Support of National Day of Prayer. The Clerk read the proclamation in to the minutes and presented it to Tricia Yeagle, event coordinator. The Proclamation is attached as Exhibit "C".

Parade/Public Assembly Application: Tricia Yeagle of Pray Dawson, Thursday, May 7, 2009, Noon to 1:00 p.m. in front of City Hall. Mayor Cox verified with Mr. Holder that the application was in order; he then called for a vote. Council unanimously approved the application; motion by Jonathan Cox, second by Linda Grant.

Parade/Public Assembly Application: Marcia Chelf on behalf of the Dawson County Arts Council, Saturday, May 2 and Sunday, May 3, 2009, 9:00 a.m. – 5:00 p.m. to host Spring Fling. Mayor Cox verified with Mr. Holder that the application was in order; Mr. Holder said they were pending the formal response from the Sheriff's office. He stated the Sheriff has given verbal approval. Mayor Cox called for a vote. Council unanimously approved the application; motion by Jonathan Cox, second by Linda Grant.

Parade/Public Assembly Application: Becky Holbrook on behalf of the Kiwanis Club of Dawson, Saturday, May 2, 2009, 8:00 – 9:30 a.m. to host Kiwanis 10K/5K Road Race. Mayor Cox verified with

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Mr. Holder that the application was in order; he then called for a vote. Council unanimously approved the application; motion by Mike Sosebee, second by Linda Grant.

Parade/Public Assembly Application: Warren King on behalf of Rotary Club of Dawson Co., Sunday, May 3, 2009, 7:30 a.m. – 2 p.m. to host Rotary "Mountain Arts Century" Bike Ride. Mayor Cox verified with Mr. Holder that the application was in order; he then called for a vote. Council unanimously approved the application; motion by Mike Sosebee, second by Linda Grant.

Resolution to remain a Certified City of Ethics. The Clerk explained that Georgia Municipal Association recently approved a new requirement for GMA's Certified City of Ethics program; participants will now need to be recertified every four years. Dawsonville received its original certification in October of 2000; she further stated that if the council wished to remain certified in the program then they are required to re-adoption or ratify the City of Ethics principals every four years via Resolution.

Council unanimously approved remaining in the program and ratified the Certified City of Ethics resolution; motion by Mike Sosebee, second by Linda Grant. A copy of the resolution is attached as Exhibit "D".

Historic District Sign Permit Application: Atlanta Mattress Outlet Store located at 23 Hwy. 9 North. Proclamation – Exceptional Children's Week Mar 2-6, 2009: Mayor Cox asked Mr. Holder if the application was in order; he then called for a vote. Council unanimously approved the sign application; motion by Mike Sosebee; second by Linda Grant.

PUBLIC HEARINGS:

To hear an Ordinance of the City of Dawsonville, a Georgia Municipal Corporation, to provide for regulations concerning public rights of way, to provide for the use of public rights of way, to provide for regulations concerning work performed within public rights of way, to provide for regulations concerning the maintenance and expansion of activities in public rights of way, to provide for applications for the use of and work in public rights of way, to provide for severability, to provide for an effective date, and for other purposes. First hearing March 2, 2009; second hearing April 13, 2009.

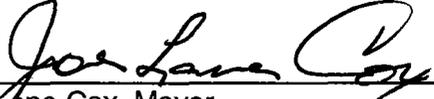
Dana Miles presented the ordinance to the council for the second reading.

Mr. Miles opened the public hearing; there were approximately 34 people in attendance and no one spoke in favor or opposition. The public hearing was closed and turned over to the Mayor. Mayor Cox called for a vote. Mike Sosebee made a motion to approve the second reading and adoption of the ordinance; Linda Grant seconded and the motion carried unanimously. A copy of the ordinance is attached as Exhibit "E".

MAYOR'S REPORT:

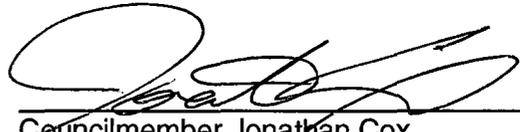
Mayor Cox invited the Council to attend a Poverty Simulation that is being hosted by the Family Connection on April 29th, from 3:00 – 5:00 p.m. at Veterans Memorial Park.

ADJOURNMENT: There being no further business to attend to, Linda Grant made a motion to adjourn, seconded by Mike Sosebee. Meeting adjourned at 7:50 p.m.

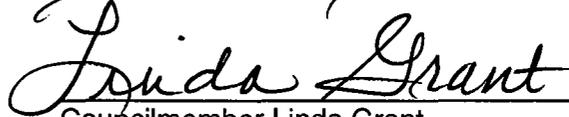


Joe Lane Cox, Mayor

MINUTES
CITY COUNCIL REGULAR MEETING
APRIL 13, 2009
7:00 P.M.



Councilmember Jonathan Cox



Councilmember Linda Grant



Councilmember Mike Sosebee



Councilmember Mike Wilson

Attested:



Kim Cornelison, City Clerk



Planning Commission:
Claire Sharp, Chairperson
B. J. Farley, Vice Chairperson
Jimmy Castleberry
Ken Breeden
Pam Bragg

P.O. Box 6
415 Highway 53 East, Suite 100
Dawsonville, GA 30534
Office (706)265-3256 Fax (706)265-4214
www.dawsonville.com

Steve Holder
Planning Director

Bonnie Warne
Zoning Administrator

April 13, 2009

The staff recommends the following stipulations if the requested rezoning of CIR for the project is approved:

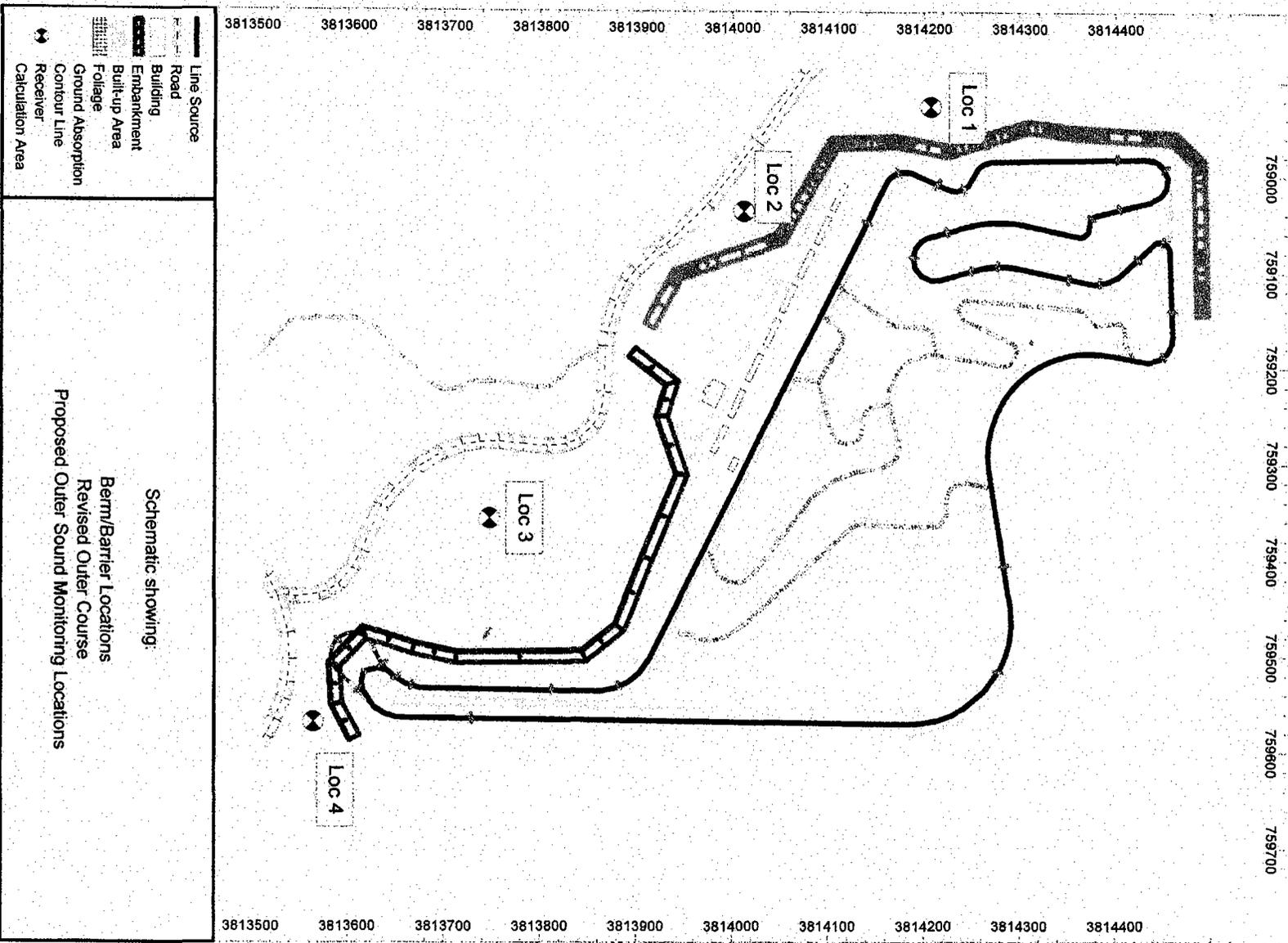
1. Private driving instruction and exhibition facility shall mean a facility containing a paved roadway two or more miles in length (the "driving course") the use of which is limited to:
 - (a) Providing instruction and training in safe driving skills, adverse weather driving techniques, or high performance/competition driving;
 - (b) The exhibition, maintenance, and operation of vintage or specialty motor vehicles;
 - (c) Similar non-spectator activities which are recreational or educational in nature.
 - (d) A private driving instruction and exhibition facility.
 - (e) Accessory clubhouse, rental garages, retail and permitted commercial or industrial uses serving the primary driving course operations. Other than set forth above, no other CIR uses shall be allowed as a principal use.
2. The Applicant/Owner, their successors and assigns by application for and acceptance of this rezoning shall have conclusively deemed to have agreed to indemnify the City and its agents and representatives from all liability including personal injuries and property damage coming out of the existence, use, ownership or operation of the Motorsport Park.
3. When the driving course contained within a Non-Spectator facility is not in use, it shall be secured in such a manner as to prevent its unauthorized use.
4. No PA system shall be installed or operated on the site.

5. Driving course will be contained within a Non-Spectator facility. The course shall be enclosed by a fence of a height and construction sufficient to preclude wildlife and unauthorized persons from gaining access to the driving course
6. At all times during which a driving course is in use, the Operator shall have, at his/her expense, on-site, a fully equipped EMT and ambulance. The EMT's shall be licensed under the laws of the State of Georgia.
7. Use of the driving course and related facilities shall be limited to its owners, operators, their agents, affiliates, employees, members, family, guests, students and instructors of the driving school and city, county or state officials, including but not limited to law enforcement personnel using the premises for training, instruction or other official business.
8. Rental garages, Club House, retail buildings and any other permitted commercial/industrial buildings shall be placed strategically to reduce sound levels. The location of the buildings shall be approved by the City Planning Director.
9. There shall be a fifty (50) foot or greater undisturbed buffer along all streams.
10. Where the property runs along Duck Thurman road, buildings shall be placed to reduce the sound levels and keep as much vegetative buffer as possible. Dirt berms shall be constructed where necessary to reduce sound levels closer to the driving course side, to a height, width and vegetative cover specified by the Owner's sound engineer to meet the requirements set forth in Condition 18 and shall be increased or modified after the sound study is completed as required in Condition 19 to maintain or achieve the sound limitation requirements of Condition 18. The berms will be designed to include hay bales and located on the property to achieve the required noise limits as depicted in Exhibit A.
11. There shall be a buffer of between one hundred (100) feet and two hundred (200) feet to reduce sound levels as designed by Owner's sound engineer to meet the requirements of Condition 18. The buffer shall be around the perimeter of the property and shall be undisturbed except to permit an entrance road to subject property, the construction of the berms and other sound mitigation measures and/or the installation of any utilities. This buffer shall be planted in any area that is not visually impervious to a level approved by the City Planning Director in order to prevent any soil erosion.
12. Exterior lighting fixtures shall be of the box type and situated so that light only goes downward and shall not be more than twenty-five feet high and shall be designed so as to minimize glare and light spillage to not more than one (1) foot candle along the interior buffer line of the subject property.
13. There will be no grandstand or similar facility for spectator viewing constructed on the property.
14. There will be no billboards or signs on poles. All signs will meet current regulations.
15. Hours of operation are limited to 7:00 a.m. to 6:00 p.m. from November 1 to March 31. From April 1 to October 31, the hours are limited to 7:00 a.m. (or one (1) hour after

sunrise, whichever is earlier) to 8:00 p.m. (or one (1) hour after sunset, whichever is earlier). No on track activity before 8 am.

16. No type of vehicle other than maintenance vehicles may run on the track or rev their engines before or after the hours listed above.
17. Facility to be restricted to site plan as submitted as to the use of the property, the type of structures allowed and the general placement of the structures as the same may be revised by Owner's sound engineer to meet the sound requirements of Condition 18. Any major adjustments, changes or additions must be approved by Planning Commission. Any minor adjustment must be approved by the Planning Director. The decision of what is major or minor is to be made in the discretion of the Planning Director.
18. Sound monitoring meters shall be installed in four or more locations around the perimeter of the property at the property line on the outside edge of the buffer at locations as shown on Exhibit A. In addition, the Owner shall install one or more sound meters 50 feet from the outside track pavement edge to monitor track sound levels such that they remain below 98 Dba LEQ at all times. Only Low Noise Go-Karts may be operated on the track and their noise level may not exceed 92 Dba LEQ. The Owner, its successors and assigns shall operate the sound monitoring meters at all times that the track is operating. As a condition of continued operation pursuant to their business license, sound levels at the four or more locations outside the berms as depicted on Exhibit A shall not exceed 60 Dba LEQ(16) on average during hours of operation with no readings over 63 Dba LEQ(16). Method of measurement: Measurements shall be made with a calibrated sound level meter in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standards, section 1.4 – 1971. For purposes of this section, a sound level meter shall contain at least an "A" weighting network, and both fast and slow response capability. Failure to comply with this condition shall result in a citation for each offense and upon conviction a fine as set by the City Judge of up to \$1,000 per violation. Upon three or more convictions for failure to comply with this condition during any calendar year, the Mayor and Council may revoke the business license and the ability of Owner, its successors and assigns to operate the facility as a motorsports park complex.
19. Prior to issuing a Certificate of Occupancy or a Business License, The Planning Department shall receive an updated noise study with typical noise generating vehicles to verify sound level limitations are met. If limitations are exceeded, further mitigating devices are to be installed until corrected and the sound levels set forth in Condition 18 are met.
20. All infrastructures shall be designed and installed as required by the Development regulations in force at the time the Owner seeks permits for development.
21. Drive way permits shall be obtained from Dawson County prior to Dawsonville issuing a Land Disturbance permit. Applicant shall construct at its expense all accel/decel lanes or other road improvements required for the development by Dawson County.
22. Development of the driving course and at least one accessory building in accordance with this rezoning and the submitted site plan must begin within eighteen (18) months

and be completed within forty-eight (48) months of the approval by the Mayor and Council. In the event either deadline is not met due to failure of Applicant/Owner to develop the property in accord with these conditions, the zoning will revert to R-1 and all improvements must be in accordance with R-1 allowed uses. Any partial development that has been completed in accordance with these conditions shall be a legal non-conformity and shall not be expanded without review and approval of City Council in accordance with the zoning ordinance. In the event either deadline is not met due to an act of God, actions of third parties not affiliated in any way with Applicant/Owner or other significant reason not caused by the action or inaction of Applicant/Owner, then the Planning Director may, in his discretion, grant upon proper application an extension of either deadline of up to three (3) months and the Mayor and Council may, in their discretion, grant a second extension of either deadline of up to six (6) months following the extension granted by the Planning Director. By acceptance of the rezoning to CIR with all of the above conditions, Applicant and its successors and assigns agree that they will have no claim of vested rights violated if they do not meet these deadlines and the property's zoning reverts to R-1.



- Line Source
- Road
- Building
- Embankment
- Built-up Area
- Foliage
- Ground Absorption
- Contour Line
- Receiver
- Calculation Area

Schematic showing:
 Berm/Barrier Locations
 Revised Outer Course
 Proposed Outer Sound Monitoring Locations

Exhibit "A"



Proclamation

Confederate History Month

April 1-30, 2009



WHEREAS, April is the month in which the Confederate States of America began a four-year conflict in the Civil War. Confederate Memorial Day on April 26th is a time when Georgians honor the more than 90,000 brave men and women who served the Confederate States of America. Georgia joined the Confederacy in January 1861 when a convention ratified the ordinance of secession, and Georgia has long cherished her Confederate history and the great leaders who made sacrifices on her behalf; and

WHEREAS, Among those who served the confederacy were many Jews who saw action in the Confederate armed forces as well as in governmental service. Most notably, Judah P. Benjamin held three cabinet positions in the Confederate States Government and was the first Jewish person to hold a cabinet position in North America. Two other individuals who made a significant contribution to Georgia were Phoebe Yates Levy Pember of Cobb County and Charles Wesselowsky of Washing County; and

WHEREAS, In 1862, Phoebe Pember was appointed Chief Matron of Chimborazo Hospital in Richmond, which at the time was the largest military hospital in the world. Operating in this atmosphere of misery and despair, she dedicated herself to doing everything possible to relieve the suffering of the soldiers, administering medication, assisting surgeons in operation, patching wounds and caring for patients. Often, she served simply as a final companion to the dying – writing letters, reading stories, playing cards, holding hands, praying and talking. She continued her duties until well after the war was over. She wrote about her experience in a book, *A Southern Woman's Story*, and

WHEREAS, Charles Wessolowsky emigrated from Prussia and settled in Sandersville. He served as a Sergeant Major in Co. E, 32nd Regiment Georgia Infantry. After the war, he moved to Albany where he served as city alderman, Clerk of Superior Court, a two year term in the Georgia House and a one year term in the Georgia Senate. He also worked as the associate editor of *The Jewish Voice*, which promoted pride, unity, and conciliation. He served as Grand High Priest of Georgia in the Masonic Order; and

WHEREAS, It is important that Georgians reflect upon our State's past and honor and respect the devotion of her Confederate leaders, soldiers and citizens.

Now, therefore, I Joe Lane Cox, Mayor of the City of Dawsonville, do hereby proclaim April 2009 as *Confederate History Month* and April 26, 2009, as *CONFEDERATE MEMORIAL DAY* in the City of Dawsonville and encourage our citizens to observe this occasion with appropriate ceremonies

In Witness Whereof, I have set my hand and seal this 13th day of April, 2009.

Attest:


Kim Cornelison, City Clerk


Joe Lane Cox, Mayor



Exhibit "B"



Proclamation

National Day of Prayer Month
Thursday, May 7, 2009



WHEREAS, America trusts in the abiding power of prayer and asks for the wisdom to discern God's will in times of joy and of trial. As we observe this National Day of Prayer, we recognize our dependence on the Almighty, we thank Him for the many blessings He has bestowed upon us, and we put our country's future in His hands.

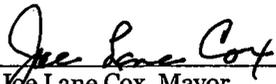
WHEREAS, From our Nation's humble beginnings, prayer has guided our leaders and played a vital role in the life and history of the United States. Americans of many different faiths share the profound conviction that God listens to the voice of His children and pours His grace upon those who seek Him in prayer. By surrendering our lives to our loving Father, we learn to serve His eternal purposes, and we are strengthened, refreshed, and ready for all that may come.

WHEREAS, On this National Day of Prayer, we ask God's continued blessings on our city, county and country. This year's theme, "**Prayer... America's Hope**" and is based on the verse from **Psalm 33:22** which states: "May your unfailing love rest upon us, O Lord, even as we put our hope in you." On this day, we pray for the safety of our brave men and women in uniform, for their families, and for the comfort and recovery of those who have been wounded.

WHEREAS, The Congress, by Public Law 100-307, as amended, has called on our Nation to reaffirm the role of prayer in our society by recognizing each year a "National Day of Prayer."

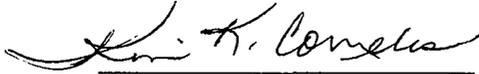
NOW, THEREFORE, I, JOE LANE COX, Mayor of the City of Dawsonville, do hereby proclaim May 7, 2009, as a National Day of Prayer. I ask the citizens of our City to give thanks, each according to his or her own faith, for the freedoms and blessings we have received and for God's continued guidance, comfort, and protection. I invite all Americans to join in observing this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of April, 2009 encourage our citizens to observe this occasion with appropriate respect and consideration.



Joe Lane Cox, Mayor

Attest:



Kim Cornelison, City Clerk



Exhibit "C"

**A RESOLUTION OF THE CITY OF DAWSONVILLE APPROVING AND ENDORSING THE
CERTIFIED CITY OF ETHICS PROGRAM UNDER THE GEORGIA MUNICIPAL
ASSOCIATION PROGRAM.**

WHEREAS, the City of Dawsonville is a municipal corporation established on December 10, 1859; and

WHEREAS, the City OF Dawsonville, wishes to be certified as a Certified City of Ethics under the GMA Program; and

WHEREAS, part of the certification process requires the Mayor and Council to subscribe to the ethics principles approved by the GMA Board;

NOW, THEREFORE, be it hereby resolved by the governing authority of the City of Dawsonville, Georgia, that as a group and as individuals, the governing authority subscribes to the following ethics principles and pledges to conduct its affairs accordingly:

Serve others, not ourselves

Use resources with efficiency and economy

Treat all people fairly

Use the power of our positions for the well being of our constituents

Create an environment of honesty, openness and integrity

SO RESOLVED, ADOPTED AND APPROVED, this 13th day of April, 2009.

CITY OF DAWSONVILLE

By: 

Joe Lane Cox
Mayor, City of Dawsonville



Jonathan Cox



Linda Grant

Mike Sosebee



Mike Wilson

Attested to:



Kim Cornelison
City Clerk, City of Dawsonville

Vote: 4 In favor
0 Opposed

Meeting: Monday, April 13, 2009

Ordinance Number: _____

Advertisement dates: Feb. 25, March 25, April 6, 8, 2009

First Reading date: MARCH 2, 2009

Second Reading date: April 13, 2009

CITY OF DAWSONVILLE RIGHT OF WAY ORDINANCE

AN ORDINANCE OF THE CITY OF DAWSONVILLE, A GEORGIA MUNICIPAL CORPORATION, TO PROVIDE FOR REGULATIONS CONCERNING PUBLIC RIGHTS OF WAY, TO PROVIDE FOR THE USE OF PUBLIC RIGHTS OF WAY, TO PROVIDE FOR REGULATIONS CONCERNING WORK PERFORMED WITHIN PUBLIC RIGHTS OF WAY, TO PROVIDE FOR REGULATIONS CONCERNING THE MAINTENANCE AND EXPANSION OF ACTIVITIES IN PUBLIC RIGHTS OF WAY, TO PROVIDE FOR APPLICATIONS FOR THE USE OF AND WORK IN PUBLIC RIGHTS OF WAY, TO PROVIDE FOR SEVERABILITY, TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

RECITALS

WHEREAS the City of Dawsonville owns various rights of way for and attendant to its municipal street system;

WHEREAS in addition to City owned rights of way, there are other public rights of way located within the City of Dawsonville in which the City has an interest;

WHEREAS the use of and work performed in public rights of way is a matter of public concern;

WHEREAS the City is empowered by §§ 36 & 40 of its Charter, as well as by O.C.G.A. § 32-4-92 to regulate public rights of way;

WHEREAS the encroachment upon public rights of way is prohibited by O.C.G.A. § 32-6-1; and

WHEREAS the Governing Authority of the City of Dawsonville has determined that it is in the best interests of the public to regulate the use of and work in public rights of way.

NOW THEREFORE BE IT ORDAINED by the Governing Authority of the City of Dawsonville as follows:

Section 1. Title

This Ordinance shall be known as the City of Dawsonville Right of Way Ordinance.

Section 2. Purpose

The purpose of this ordinance is to provide for regulations of public rights of way in accordance with the powers granted to the City of Dawsonville via its Charter, O.C.G.A. §32-4-92 and §32-6-1. It is further the purpose to advance the health, safety, and welfare of the public by proscribing regulations for the use of and work in public rights of way.

Section 3. Definitions

Unless otherwise defined expressly below, the words and phrases used in this Ordinance shall have their ordinary and customary signification attached to them.

- A. **Emergency:** a situation or set of circumstances which, in the discretion of the City of Dawsonville or its officials, warrants swift action or response.
- B. **Encroachment:** any object, building, structure, line, pipe, cable, or thing located within a public right of way. Encroachments also include, but are not limited to, signs and sign support structure placed in and obstructions of rights of way.
- C. **Right of Way:** any and all rights and interests in land held by the City or other public bodies, or hereinafter acquired by the same attendant to the roads, streets, alleys and public ways in the City of Dawsonville, to include the full width of any such right of way and not limited to any paved or graded portion thereof. Such term shall include any and all such interests, whether owned in fee or held by easement, no matter how acquired.
- D. **Utility:** a person, service or company carrying on an enterprise which provides accommodations to the public, including but not limited to the provision of telephone, electricity, natural gas, cable television, fiber optic, water, waste water, and similar services.

Section 4. Prohibitions and Enforcement

- A. It shall be unlawful to encroach upon, utilize, or perform work in or upon any public right of way in violation of this ordinance, the City Zoning Ordinance or the City Development Regulations.
- B. It shall be unlawful to cause, create, or maintain any encroachment on any public right of way except as may be specifically authorized by this ordinance or the Code of the City of Dawsonville, Georgia.
- C. No person or entity other than a utility company operating pursuant to a state or City franchise shall be permitted to cause, create or maintain any encroachment on any

public right of way that is not directly adjacent to property owned or leased by that person or entity.

- D. Violations of this ordinance shall be punishable in accordance with § 1-12 of the Code of Dawsonville Georgia. In addition, the City may require the removal of any unauthorized encroachment, or the City may itself undertake the removal of such encroachment and assess the costs therefore against the offender.

Section 5. Permit Required

- A. Any person or entity desiring to perform any work on or within any public rights-of-way including, but not limited to the installation, construction, modification, and/or removal of sidewalks, driveways, aprons, curbs, curbing, gutters, drainage structures, signs, utilities and their appurtenances, or other related work, shall make application to the City, obtain approval and a permit for such purpose before any work is commenced.
- B. The requirements as stipulated in the preceding paragraph shall equally apply to any changes, alterations or additions to any existing installations on public rights-of-way.
- C. Scope of Requirement
 - 1. Nothing contained herein shall require any encroachment existing on the date of the adoption of this ordinance to apply for and seek a permit for continued existence. However, modification or maintenance of such encroachments which alters the extent or nature of the encroachment shall require a permit.
 - 2. Nothing contained herein shall require a permit for the regular maintenance or repair of permitted encroachments or encroachments excepted from the permit requirement pursuant to this ordinance. However, any maintenance or repair which alters the extent or nature of the encroachment shall require a permit.

Section 6. Application

- A. The application for the permit required in Section 5 of this Ordinance shall be made in triplicate to the City of Dawsonville Public Works Department upon forms provided by that Department. The Public Works Department shall forward one copy of the application to the City of Dawsonville Planning and Zoning Department for that department's review and comment.
- B. The application shall be accompanied by a fee set by the Mayor and Council by resolution no more than annually. The initial application fee shall be \$50.00 for any permit sought adjoining a single parcel or tract of land and it shall remain at that level until changed by resolution as provided hereinabove. In the event an applicant seeks a permit for more than one tract or for a City-wide permit, the application fee shall be set by the Mayor and Council by resolution based upon the breadth of the permit

sought and the anticipated staff, legal and engineering costs to be incurred by the City in review and consideration of the permit.

- C. Upon review of the application, the City shall have the authority to require plans and/or drawings to be submitted in support of the application sufficient to indicate the nature and extent of the work proposed. All proposed work must be in compliance with this Ordinance, the City Zoning Ordinance, the City Development Regulations and any other applicable provisions of the Code of the City of Dawsonville.
- D. Upon review of the application and prior to granting any permit under this Ordinance, the City shall have the authority to:
 - 1. Require the applicant to post a bond with a surety acceptable to the City conditioned to indemnify the City for loss or damage caused by or resulting from the work undertaken within the public rights of way.
 - 2. Require the applicant to post a bond with a surety acceptable to the City conditioned to indemnify, protect and hold harmless the City from all claims for damages or injury to persons or property caused by or resulting from the work undertaken within the public rights of way.
- E. The application for permit shall be reviewed and a decision thereon shall be issued within ten (10) business days of receipt of the completed application of the City, or within ten (10) business days from the receipt of any documentation required by the City pursuant to this Ordinance. In reviewing the application and making a decision thereon, the City shall consider:
 - 1. The effect of the proposed work or encroachment on the public rights of way.
 - 2. The effect of the proposed work or encroachment on the safety and welfare of the public.
 - 3. Whether alternatives may ameliorate negative effects on the public rights of way or the safety of the public.
 - 4. Whether the proposed work or encroachment will conflict with or create problems with anticipated improvements to the public rights of way whether by the City or other governmental entities, or to future utility plans or the Future Land Use Map.
 - 5. Whether the proposed work or encroachment will comply with the Zoning Ordinance and the Development Regulations.
 - 6. Whether in light of the foregoing factors, the application should be granted, returned for amendment and alteration, or should be denied.

Section 7. Removal or Relocation of Encroachments

- A. In addition to the removal provisions described in Section 4 above, the City reserves all rights and privileges granted to it pursuant to O.C.G.A. § 32-4-92 and § 32-6-171 to require removal or relocation of right of way encroachments.

- B. In the event that any such relocation or removal is performed by the City or its designees, the City reserves to itself all rights and privileges granted pursuant to O.C.G.A. § 32-6-173 authorizing the City to assess the costs of such relocation or removal against the person or entity which owns or is otherwise responsible for the encroachment.
- C. The issuance of a permit pursuant to Section 5 of this Ordinance does not grant a property interest in any person or entity holding such a permit, nor does it grant a compensable right to utilize the public rights of way. All utilizations of public rights of way governed by this ordinance are at the pleasure of the City of Dawsonville, and may be revoked at any time in an emergency situation or upon thirty (30) days notice in a non-emergency situation.

Section 8. Working in Public Rights of Way

- A. To the extent reasonably possible, notification shall be given to the City of Dawsonville Public Works Department prior to the initiation of any work within a public right of way in the City of Dawsonville, whether or not a permit is required under this Ordinance.
- B. All work performed within public rights of way in the City of Dawsonville, whether or not subject to the permit requirements of this ordinance, shall be performed as follows:
 - 1. Prior to initiating any work within a public right of way which will require working below grade, the person or entity responsible for such work shall have all utilities located to avoid conflict with or interruption in utility service.
 - 2. All care shall be taken not to physically encroach into the portion of the right of way utilized by the public for travel purposes, whether for vehicular or pedestrian traffic.
 - 3. In the event it is necessary to encroach into the portion of the right of way utilized by the public for travel purposes, the person or entity performing the work shall be responsible for posting signage, erecting barricades, and providing other protective equipment to adequately safeguard the public and those performing the work.
 - 4. To the greatest extent possible, all work within public rights of way shall be performed during daylight hours. In the event it is necessary to conduct work outside of daylight hours the person or entity performing the work shall be required to provide adequate lighting to protect and adequately safeguard the public and those performing the work.
 - 5. At the conclusion of work within the public right of way, the person or entity responsible for the work shall restore the right of way to the condition in which it existed prior to the commencement of work, to include but not be limited to any necessary backfilling, grading, landscaping, planting and utility

restoration. All public rights of way shall be left clean of surplus material and debris of every kind.

- C. The City of Dawsonville Public Works Department shall have the power to inspect any work performed in public rights of way within its corporate limits, and shall further have the power to declare the work as being not in conformance with this ordinance or the plans submitted in support of any application to the City. Such deficiencies shall be communicated to the person or entity responsible for the work, who shall correct said deficiencies within ten (10) days of receipt of notice from the City. Failure to correct the noted deficiencies shall be a violation of this ordinance and may be enforced pursuant to Section 4.

Section 9. Appeal

Persons aggrieved by a decision of the City pursuant to this Ordinance may appeal the decision to the Mayor and Council of the City of Dawsonville, utilizing the appeal procedures outlined in the City Zoning Ordinance.

Section 10. Repeal of Conflicting Ordinances

All ordinances and parts thereof in conflict with this Ordinance are hereby repealed.

Section 11. Severability

If any section, provision or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

Section 12. Effective Date

The Ordinance shall be effective upon its adoption by the Governing Authority of the City of Dawsonville, Georgia.

Adopted and Ordained this 13th day of April, 2009.

CITY OF DAWSONVILLE, GEORGIA



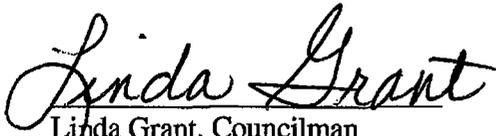
Joe Lane Cox
Mayor, City of Dawsonville



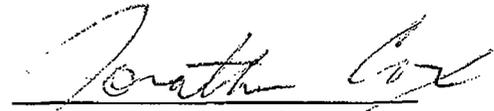
Mike Wilson, Councilman



Mike Sosebee, Councilman



Linda Grant, Councilman



Jonathan Cox, Councilman

Attest: 
Kim Cornelison, Clerk