



## CITY OF MILTON, GEORGIA

Joe Lockwood, Mayor

### CITY COUNCIL

Karen Thurman  
Julie Zahner Bailey  
Bill Lusk  
Burt Hewitt  
Tina D'Aversa  
Alan Tart

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**Monday, July 20, 2009**

**ACTION MINUTES**

**6:00 PM**

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**1) CALL TO ORDER**

**2) ROLL CALL**

**3) PLEDGE OF ALLEGIANCE**

**4) APPROVAL OF MEETING AGENDA**

**(Agenda Item No. 09-895)**

Staff recommended the following changes to the meeting Agenda:

1. Under Reports and Presentations, remove the presentation by the Milton Bicycle and Pedestrian Trail Committee and place it on the August Work Session.
2. Remove Item No. 1 under New Business, Approval of a Resolution adopting the Partial Plan Update, the Community Assessment and the Community Participation Plan of the City of Milton 2008-2028 Comprehensive Plan.
3. Add an Executive Session to discuss potential litigation.

**Motion and Vote:** Councilmember Tart moved to approve the Meeting Agenda as recommended by staff. Councilmember D'Aversa seconded the motion. The motion passed unanimously 7-0.

**5) PUBLIC COMMENT**

**6) CONSENT AGENDA**

1. Approval of the July 6, 2009 Regular Meeting Minutes.  
**(Agenda Item No. 09-896)**

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Milton City Hall  
City Council Chambers  
13000 Deerfield Parkway, Suite E  
Milton, GA 30004

***Persons needing special accommodations in order to participate in any City meeting should call 678-242-2500.***

2. Approval of Financial Statements for the period ending June 2009.  
(Agenda Item No. 09-897)

**Motion and Vote:** Councilmember Tart moved to approve the Consent Agenda. Councilmember Hewitt seconded the motion. The motion passed unanimously 7-0.

## 7) REPORTS AND PRESENTATIONS

*Removed by Motion and Vote:*

1. Presentation by the Milton Bicycle and Pedestrian Trail Committee.  
(Presented by Dr. Brian Maloney, Chair)

## 8) FIRST PRESENTATION (none)

## 9) PUBLIC HEARINGS

### ALCOHOL BEVERAGE LICENSE APPLICATIONS

1. Approval of Alcohol Beverage License Application for Marquis Restaurant Group Windward d/b/a CHA CHA BONGA Cuban Grill located at 5250 Windward Parkway, Suite 111, Milton, Georgia. The applicant is Ivonne Cranford for consumption on the premises of wine/malt beverage. (This item was postponed on July 6, 2009.)  
(Agenda Item No. 09-891)

**Motion and Vote:** Councilmember D’Aversa moved to approve Agenda Item 09-891, Approval of Alcohol Beverage License Application for marquis Restaurant Group Windward d/b/a CHA CHA BONGA Cuban Grill located at 5250 windward parkway, Suite 111, Milton, Georgia. The applicant is Ivonne Cranford for consumption on the premises of wine/malt beverage. Councilmember Thurman seconded the motion. The motion passed unanimously 7-0.

2. Approval of Alcohol Beverage License Application for J and D Restaurant Corp. d/b/a The Red Hen located at 5310 Windward Parkway, Milton, Georgia. The applicant is David Rutledge for consumption on the premises of wine/malt beverage.  
(Agenda Item No. 09-898)

**Motion and Vote:** Councilmember Lusk moved to approve Agenda Item 09-898, Approval of Alcohol Beverage license Application for J and D Restaurant Corp. d/b/a The Red Hen located at 5310 Windward parkway, Milton, Georgia. The applicant is David Rutledge for consumption on the premises of wine/malt beverage. Councilmember Thurman seconded the motion. The motion passed unanimously 7-0.

## 10) ZONING AGENDA

1. **ZM09-01/VC09-03** – 13940 Atlanta National Drive by Aliaune Thiam, represented by Stephen Rothman, Wilson Brock & Irby, LLC Rothman for a modification to Condition 1.e. (Z85-181) to reduce the 100-foot perimeter setback to 33 feet and a concurrent

variance to reduce the minimum setback from 100 feet to 33 feet for a private court (Article 19.3.8.B.1). (First Presentation on July 6, 2009.)  
**(Agenda Item No. 09-890)**

**Motion and Vote:** Councilmember Tart moved to approve Agenda Item 09-890, **ZM09-01/VC09-03** – 13940 Atlanta National Drive by Aliaune Thiam, represented by Stephen Rothman, Wilson Brock & Irby, LLC Rothman for a modification to Condition 1.e. (Z85-181) to reduce the 100-foot perimeter setback to 33 feet and a concurrent variance to reduce the minimum setback from 100 feet to 33 feet for a private court (Article 19.3.8.B.1). Councilmember D’Aversa seconded the motion. The motion passed unanimously 7-0.

2. **U09-01 / VC09-01**, 13120 Arnold Mill Road, by Frank Schaffer, The Landscape Group, Inc. - To obtain a use permit for a landscaping business on 1.74 acres at a density of 3,908.04 square feet per acre (Article 19.4.27). Applicant is also requesting 3-part concurrent variance:
  - 1) To delete the 50’ buffer and 10’ improvement setback along the west property line from the right-of-way for a distance of 140’ (12H.3.1 Section C.1).
  - 2) To delete the 50’ buffer and 10’ improvement setback along the east property line from the right-of-way for a distance of 140’ (12H.3.1 Section C.1).
  - 3) To allow a sign located less than 10’ from the right-of-way (Article 33 Section 21.C).**(Agenda Item No. 09-813)**  
(First Presentation on March 2, 2009.) (Deferred on June 15, 2009.)

**Motion:** Councilmember Hewitt moved to defer until September 21, 2009, Agend Item 09-813, **U09-01 / VC09-01**, 13120 Arnold Mill Road, by Frank Schaffer, The Landscape Group, Inc. - To obtain a use permit for a landscaping business on 1.74 acres at a density of 3,908.04 square feet per acre (Article 19.4.27). Applicant is also requesting 3-part concurrent variance:

- 1) To delete the 50’ buffer and 10’ improvement setback along the west property line from the right-of-way for a distance of 140’ (12H.3.1 Section C.1).
- 2) To delete the 50’ buffer and 10’ improvement setback along the east property line from the right-of-way for a distance of 140’ (12H.3.1 Section C.1).
- 3) To allow a sign located less than 10’ from the right-of-way (Article 33 Section 21.C).

**Second and Vote:** Councilmember Tart seconded the motion. The motion passed unanimously 7-0.

3. **U09-02/VC09-02** - 15150 Birmingham Hwy, Application by Robb Nestor to obtain a use permit for a landscaping business on 3.926 acres at a density of 387.92 square feet per acre (Article 19.4.27). Applicant is also requesting concurrent variance to allow access from a local street (Article 19.4.27.B.1).  
**(Agenda Item No. 09-836)** (First Presentation on April 13, 2009, deferred on June 15, 2009.)

**Motion and Vote:** Councilmember Zahner Bailey moved to defer until September 21, 2009, Agenda Item 09-836, **U09-02/VC09-02** - 15150 Birmingham Hwy, Application by Robb Nestor to obtain a use permit for a landscaping business on 3.926 acres at a density of 387.92 square feet per acre (Article 19.4.27). Applicant is also requesting concurrent variance to allow access from a local street (Article 19.4.27.B.1). Councilmember Tart seconded the motion. The motion

failed 3-4, with Mayor Lockwood, Councilmember Thurman, Councilmember Lusk and Councilmember Hewitt opposed.

**Motion and Vote:** Councilmember Hewitt moved to approve Agenda Item 09-836, **U09-02/VC09-02** - 15150 Birmingham Hwy, Application by Robb Nestor to obtain a use permit for a landscaping business on 3.926 acres at a density of 387.92 square feet per acre (Article 19.4.27). Applicant is also requesting concurrent variance to allow access from a local street (Article 19.4.27.B.1) including parts 1 through 3 as approved by the Planning Commission with conditions as noted by staff. Councilmember Lusk seconded the motion. The motion passed 4-3, with Councilmember Zahner Bailey, Councilmember D'Aversa and Councilmember Tart opposed.

**11) UNFINISHED BUSINESS** (*none*)

**12) NEW BUSINESS**

*Removed by Motion and Vote*

1. Approval of a Resolution adopting the Partial Plan Update, the Community Assessment and the Community Participation Plan of the City of Milton 2008-2028 Comprehensive Plan. (This item was deferred on July 6, 2009.)  
**(Agenda Item No. 09-892)**

2. Approval of a Resolution to appoint two members to the Stakeholders Committee for the North Fulton Comprehensive Transportation Plan.

**(Agenda Item No. 09-899)**

**RESOLUTION NO. 09-07-98**

**Motion and Vote:** Councilmember Tart moved to approve Agenda item 09-899, Approval of a Resolution to appoint two members to the Stakeholders Committee for the North Fulton Comprehensive Transportation Plan. Councilmember Thurman seconded the motion. The motion passed unanimously 7-0.

3. Delivery of the Parks and Recreation Advisory Board Recommendation to the Mayor and Council on use of Bell Memorial Park for Travel Teams.

**(Agenda Item No. 09-900)**

*(Presented by Mark Shaw, PRAB Vice-Chair)*

**13) MAYOR AND COUNCIL REPORTS**

**14) STAFF REPORTS**

**15) EXECUTIVE SESSION**

*Added by Motion and Vote*

The purpose of the Executive Session is to discuss potential litigation.

**Motion and Vote:** Councilmember Thurman moved to adjourn into Executive Session at 9:56 p.m. Councilmember D'Aversa seconded the motion. The motion passed unanimously 7-0.

### **RECONVENE**

**Motion and Vote:** Councilmember Lusk moved to reconvene the Regular Meeting at 10:10 p.m. Councilmember D'Aversa seconded the motion. The motion passed unanimously 7-0.

### **16) ADJOURNMENT**

**(Agenda Item No. 09-901)**

**Motion and Vote:** Councilmember Lusk moved to adjourn the Regular Meeting at 10:12 p.m. Councilmember D'Aversa seconded the motion. The motion passed unanimously 7-0.