

**MINUTES**  
**CITY COUNCIL REGULAR MEETING**  
**October 2, 2017**  
**5:00 P.M.**

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**CALL TO ORDER:** Mayor Pro-Tem Jason Power called the meeting to order at 4:59 p.m.

**ROLL CALL:** Present were Mayor Pro-Tem Jason Power, Councilmember Angie Smith, Councilmember Caleb Phillips, Councilmember Mike Sosebee, City Attorney Dana Miles, City Manager Bob Bolz, Human Resource Manager Tracy Smith, Public Works Manager Trampas Hansard, Planning Director Casey Majewski and Zoning Administrator Nalita Copeland.

**INVOCATION AND PLEDGE:** Invocation and pledge was led by City Manager Bob Bolz.

**AGENDA:** Motion to approve the agenda as presented by: A. Smith/C. Phillips. Vote carried unanimously in favor.

**MINUTES:** Motion to approve the minutes of the rescheduled regular meeting and work session September 18, 2017 by: C. Phillips/M. Sosebee. Vote carried unanimously in favor.

**BUSINESS:**

2018 Insurance Benefits: Motion for the City to continue to pay 100% of employee/official coverage with the increased cost of dependent coverage to be split; half to be paid by the employee/official and half to be paid by the City by C. Phillips/M. Sosebee. Vote carried unanimously in favor.

Combined Annexation Reduction Request (Gold Creek residents): Motion to table until the December 4, 2017 City Council Meeting at the applicant's request by C. Phillips/M. Sosebee. Vote carried unanimously in favor.

Proclamation for Red Ribbon Week October 23 – 31, 2017: Mayor Pro-Tem Jason Power read the proclamation into the minutes; no one in attendance to present it to.

Extension of Bid for LMIG Grant Sidewalk Project: Motion to authorize City Manager Bob Bolz to execute the change order for the extension of the sidewalk bid at \$48 per square yard for the LMIG Grant Sidewalk Project by C. Phillips/A. Smith. Vote carried unanimously in favor.

Budget Amendment for Personnel: Motion to approve budget amendment of \$161,245.00 as presented which includes an additional \$2500.00 salary range increase for the Finance Administrator position and to increase the City Manager's compensation by \$10,000 by C. Phillips/A. Smith. Vote carried unanimously in favor.

Finance Administrator Recommendation: City Manager Bob Bolz informed the Council of his recommendation for the Finance Administrator position.

Regulatory License Fee: Motion to direct City Attorney Dana Miles to draw up an ordinance change to remove the regulatory license fee by C. Phillips/A. Smith. Vote carried unanimously in favor.

**PUBLIC HEARINGS:**

ANX 2017-001: LCG Residential LLC has petitioned for annexation into the city limits of Dawsonville for the 9.9 acres at TMP 094 046, located at 1324 Hwy 9 South, with a request to rezone to R3 (Single Family Residential). (First reading Sept 18<sup>th</sup> /Second reading Oct 2<sup>nd</sup>)

ZA-2017-C7-00207: LCG Residential has requested a zoning amendment, upon annexation, for TMP 094 046 located at 1324 Hwy 9 South, consisting of 9.9 acres, from County Zoning of RSR (Residential Sub Rural) to City Zoning R-3 (Single Family Residential). (First reading by PC Aug 14<sup>th</sup>/Final reading Oct 2<sup>nd</sup>)

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The public hearing was unanimously opened by A. Smith/C. Phillips. City Attorney Dana Miles conducted the public hearing on the applications for annexation and rezoning. Matthew Bennett from LCG spoke in favor of the applications reiterating their intention. No one spoke in opposition. The public hearing was unanimously closed by A. Smith/M. Sosebee. Attorney Miles instructed Council the applications were ripe for a vote.

Motion to approve ANX 2017-001 and ZA-2017-C7-00207 per staff recommendations as outlined below by A. Smith/C. Phillips. Vote carried unanimously in favor. (Exhibit "A")

- The properties will be combined into one parcel and recorded as such. There shall be a 50 feet undisturbed buffer for lots adjacent to TMP's 084-004 and 094-003.
- Homes shall be a minimum of 1,600 square feet.
- Applicant shall provide a traffic study prior to the site plan approval for the planned entrance along Route 9 South and JC Burt Road. The traffic study shall at a minimum account for traffic patterns, turning options, and trip counts and recommend measures to reduce impact.
- Applicant shall provide a water and sewer infrastructure impact study performed by GMRC at the applicant's expense.
- Applicant will provide amenities to include a playground, a community clubhouse, walking trails with exercise stations, and community pool.
- Applicant will install 5 foot-wide sidewalks within the community and along frontage on JC Burt Road and Route 9 South.
- Applicant will provide lighting along streets and amenity areas every 100 feet or as approved by the City Manager or his/her designee.
- Applicant will provide 22 foot-wide paved streets with 50 foot ROW road dedications.

An Ordinance For The Purpose of Providing For Regulation And Franchise Fees For State And Federal Utility Franchises; For Revising And Correcting The Telecommunications Services Franchises And Licenses Ordinance; To Provide For Repealer; To Provide An Effective Date; And For Other Purposes. (First reading Sept 18<sup>th</sup>/ Second reading Oct 2<sup>nd</sup>)

The public hearing was unanimously opened by A. Smith/M. Sosebee. City Attorney Dana Miles presented the ordinance and conducted the public hearing. No one spoke in favor or opposition. The public hearing was unanimously closed by C. Phillips/M. Sosebee.

Motion to approve the ordinance as presented by C. Phillips/A. Smith. Vote carried unanimously. (Exhibit "B")

An Ordinance To Amend The City Of Dawsonville Occupation Taxes And Miscellaneous Business Regulations Ordinance; To Provide For Regulation Of Peddlers And Temporary Vendors; To Provide For Regulation Of Mobile Food Vendors; To Provide For Regulation Of City Farmers' Market Sellers; To Repeal Conflicting Ordinances; And For Other Purposes. (First reading Sept 18<sup>th</sup>/ Second reading Oct 2<sup>nd</sup>)

The public hearing was unanimously opened by C. Phillips/A. Smith. City Attorney Dana Miles presented the ordinance and conducted the public hearing. No one spoke in favor or opposition. The public hearing was unanimously closed by A. Smith/C. Phillips.

Attorney Miles discussed with Council the most recent revisions to the ordinance and the need for further revisions.

Motion to table the vote to the November 6, 2017 City Council Meeting by A. Smith/M. Sosebee. Vote carried unanimously.

**MINUTES**  
**CITY COUNCIL REGULAR MEETING**  
**October 2, 2017**  
**5:00 P.M.**

**STAFF REPORTS:**

City Manager Bob Bolz informed Council that we are hosting the Dawson County Hazard Mitigation Workshop this month along with the GMRC District Meeting. He shared that the City has informed the residents regarding picking up brush from the storm via Sam's Tree Co. who will turn it into mulch and can later be picked up by residents. On behalf of the Utilities Director Gary Barr, Bob spoke of the water meter replacement project; all is complete except for one meter we are waiting for from the manufacturer. Project will be done well ahead of schedule. Sidewalks at Red Hawk will be completed this week

Public Works Operations Manager Trampas Hansard reported on picking up all the storm debris so they are back to cutting grass. Sidewalks on Robinson Road at Hightower were bid out; lowest bid of 3 bidders was Hill Concrete and completed in one day. Four bids were received for the front embankment at City Hall; lowest bid went to Townley Construction and project was started today.

Planning Director Casey Majewski reported the department currently has 45 open residential permits and 10 open commercial permits; a record number of inspections was reached at 107 for September. Reminder of approved events occurring this month to include Benchmark Physical Therapy Fundraiser and the Moonshine Festival.

**EXECUTIVE SESSION:** At 5:57 p.m. the Council motioned to close regular session and go into executive session for the purpose of Pending and Potential Litigation and Land Acquisition by: A. Smith/C. Phillips. Vote carried unanimously in favor.


At 6:07 p.m. a motion to close executive session and resume Regular Session was made by: A. Smith/M. Sosebee. Vote carried unanimously in favor.

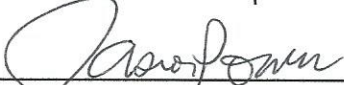
**ADJOURNMENT:** With there being no further business to attend to, the meeting was adjourned at 6:07 p.m. by motion: A. Smith/M. Sosebee. Vote carried unanimously in favor.

By: CITY OF DAWSONVILLE

**ABSENT**

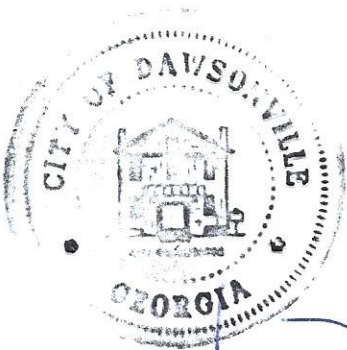
\_\_\_\_\_  
Mayor W. James Grogan

  
\_\_\_\_\_  
Councilmember Caleb Phillips

  
\_\_\_\_\_  
Mayor Pro-Tem, Jason Power

  
\_\_\_\_\_  
Councilmember Angie Smith

  
\_\_\_\_\_  
Councilmember Mike Sosebee



Attested:   
\_\_\_\_\_  
City Clerk/Deputy City Clerk

STATE OF GEORGIA  
COUNTY OF DAWSON

AFFIDAVIT OF THE CITY OF DAWSONVILLE MAYOR AND COUNCIL

Mayor W. James Grogan, Council Member Caleb Phillips, Council Member Angie Smith, Council Member Jason Power and Council Member Mike Sosebee; being duly sworn, state under oath that the following is true and accurate to the best of their knowledge and belief:

1.  
The City of Dawsonville Council met in a duly advertised meeting on the October 2, 2017.

2.  
During such meeting, the Board voted to go into closed session.

3. 5:51  
The executive session was called to order at \_\_\_\_\_ p.m.

4.  
The subject matter of the closed portion of the meeting was devoted to the following matter(s) within the exceptions provided in the open meetings law:

Consultation with the City Attorney or other legal counsel to discuss pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the City or any officer or employee or in which the City or any officer or employee may be directly involved as provided in O.C.G.A. § 50-14-2(1);

Discussion of tax matters made confidential by state law as provided by O.C.G.A. § 50-14-2(2) and \_\_\_\_\_;

Discussion of future acquisition of real estate as provided by O.C.G.A. § 50-14-3(4);

Discussion or deliberation on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a City officer or employee as provided in O.C.G.A. § 50-14-3(6);

Other \_\_\_\_\_ as provided in: \_\_\_\_\_.

This 2<sup>nd</sup> day of October, 2017; By the City of Dawsonville, Mayor and Council:

Absent

\_\_\_\_\_  
W. James Grogan, Mayor

Caleb Phillips

\_\_\_\_\_  
Caleb Phillips, Council Member

Jason Power

\_\_\_\_\_  
Jason Power, Council Member Mayor Pro-Tem

Angie Smith

\_\_\_\_\_  
Angie Smith, Council Member

Mike Sosebee

\_\_\_\_\_  
Mike Sosebee, Council Member

Sworn to and subscribed before me this  
2 day of October, 2017.

Tracy G. Smith

Signature  
Notary Public  
My Commission expires:



**Tracy G. Smith**  
**NOTARY PUBLIC**  
**Dawson County, Georgia**  
**My Commission Expires**  
**August 13, 2021**

**ANNEXATION ORDINANCE**  
**ANX-17-001**

[STATE OF GEORGIA]  
[COUNTY OF DAWSON]

**WHEREAS**, the City of Dawsonville, a Georgia municipal corporation (“Dawsonville”) wishes to take action to annex certain land into the corporate limits of the City of Dawsonville, a Georgia municipal corporation; and,

**WHEREAS**, pursuant to O.C.G.A. § 36-36-20, *et. seq.*, authority is granted to governing body of Dawsonville to annex into the existing corporate limits of Dawsonville unincorporated areas contiguous to the corporate limits of Dawsonville upon written and signed application of all of the owners of the land proposed to be annexed; and,

**WHEREAS**, on July 24, 2017, an application of real property was filed with the City of Dawsonville by Matthew Bennett, managing member of LCG Residential, LLC, Owner, regarding certain property lying and being in Land Lot No. 581, 14<sup>th</sup> Land District, 1<sup>st</sup> Section, Dawson County, Georgia, designated as TMP 094 046, being more particularly described as +/- 9.90 acres, as depicted on a survey recorded at Deed Book 1240 page 595, Plat Book 38 page 39, Dawson County Records (the “Property”), said survey of the Property being attached hereto as Exhibit “A”; and,

**WHEREAS**, pursuant to O.C.G.A. § 36-36-6, notice was provided to the governing authority of Dawson County, a political subdivision of the State of Georgia, of such proposed annexation, a copy of said notice being attached hereto as Exhibit “B”; and,

**WHEREAS**, the Mayor and Council of Dawsonville do desire to act on such application for annexation of real property by Matthew Bennett, managing member of LCG Residential, LLC as set forth herein;

**NOW THEREFORE**, the City of Dawsonville, a Georgia municipal corporation, hereby enacts the following:

I.

The Ordinances of the City of Dawsonville, Georgia, are amended as follows:

\_\_\_\_\_  
**CITY OF DAWSONVILLE, GEORGIA**  
\_\_\_\_\_

**ORDINANCE REGARDING ANNEXATION OF LAND  
PURSUANT TO O.C.G.A. § 36-36-20, et. seq.**

1

EXHIBIT “A”  
\_\_\_\_\_

Application having been made by Matthew Bennett, managing member of LCG Residential, LLC (the "Owners") to annex certain unincorporated real property into the corporate limits of the City of Dawsonville, a Georgia municipal corporation, said real property being more particularly described as lying and being in Land Lot No. 581, of the 14<sup>th</sup> Land District, 1<sup>st</sup> Section, Dawson County, Georgia, designated as TMP 094 046, being more particularly described as +/- 9.90 acres, as depicted on a survey recorded at Deed Book 1240 page 595, Plat Book 38 page 39, Dawson County Records (the "Property"), said Property being contiguous to the existing corporate limits of the City of Dawsonville, a Georgia municipal corporation, the Mayor and Council of the City of Dawsonville, a Georgia municipal corporation, under the authority and powers granted under O.C.G.A. § 36-36-20, *et. seq.*, do hereby annex the Property into the corporate limits of the City of Dawsonville, a Georgia municipal corporation, effective as of the date of this Ordinance and direct the City Clerk and City Attorney for the City of Dawsonville, a Georgia municipal corporation, to take such actions to make such reports and filings as are necessary to effectuate the annexation of the Property into the corporate limits of the City of Dawsonville, a Georgia municipal corporation.

II.

All ordinances, parts of ordinances, amendments, or regulations in conflict herewith are repealed.

III.

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

IV.

It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Dawsonville, Georgia.

V.

This Ordinance shall take affect the first day of the month following the adoption of this ordinance provided that all requirements of Article 2 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated have been met; and shall become effective for purposes of ad valorem taxes on December 31<sup>st</sup> of the year in which this ordinance is adopted.

The above Ordinance was approved by the Mayor and Council of the City of Dawsonville, Georgia, on the 2<sup>nd</sup> day of October, 2017.

(Signatures on next page)

By: CITY OF DAWSONVILLE

**ABSENT**

\_\_\_\_\_  
Mayor W. James Grogan

*C. Phillips*

\_\_\_\_\_  
Councilmember Caleb Phillips

*J. Power*

\_\_\_\_\_  
Mayor Pro-Tem, Jason Power

*Angie Smith*

\_\_\_\_\_  
Councilmember Angie Smith

*Mike Sosebee*

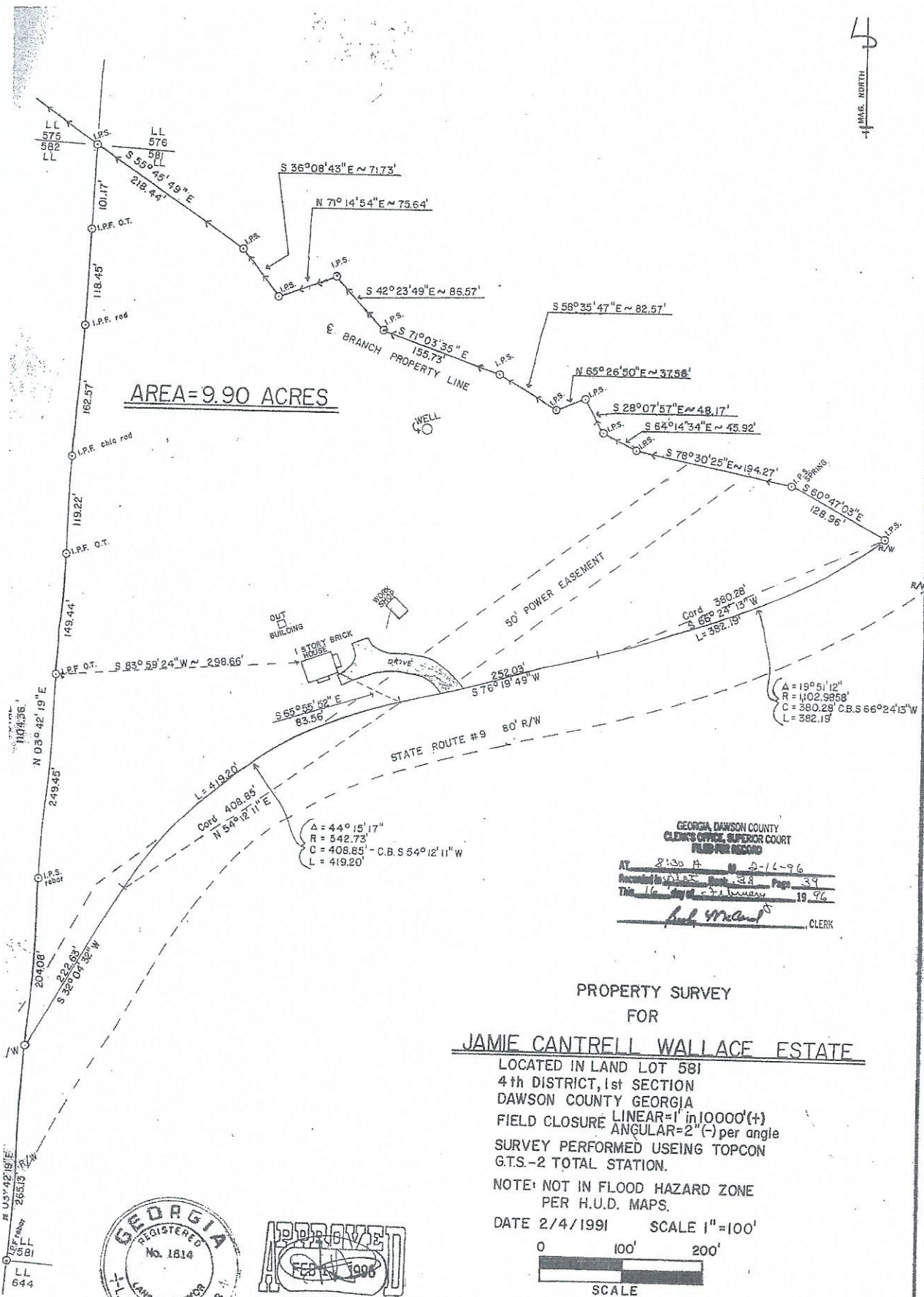
\_\_\_\_\_  
Councilmember Mike Sosebee



Attested:

*Beverly A. Banister*  
\_\_\_\_\_  
Beverly Banister, City Clerk

4  
IMAG. NORTH



AREA=9.90 ACRES

$\Delta = 44^{\circ}15'17''$   
 $R = 542.73'$   
 $C = 408.85'$  - C.B.S  $54^{\circ}12'11''$  E  
 $L = 419.20'$

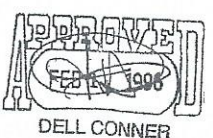
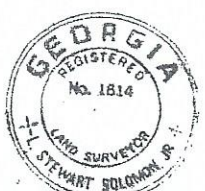
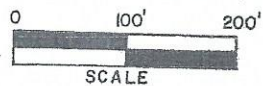
$\Delta = 19^{\circ}5'12''$   
 $R = 1102.9858'$   
 $C = 380.28'$  C.B.S  $66^{\circ}24'15''$  W  
 $L = 382.19'$

GEORGIA DAWSON COUNTY  
 CLERK'S OFFICE, SUPERIOR COURT  
 FILED FOR RECORD  
 AT 8:30 A.M. ON 2-11-96  
 Recorded in 2010 at Book 38 Page 39  
 This 16 day of February 1996  
 [Signature] CLERK

PROPERTY SURVEY  
 FOR  
JAMIE CANTRELL WALLACE ESTATE

LOCATED IN LAND LOT 581  
 4th DISTRICT, 1st SECTION  
 DAWSON COUNTY GEORGIA  
 FIELD CLOSURE LINEAR=1' in 10000'+)  
 ANGULAR=2" (-) per angle  
 SURVEY PERFORMED USING TOPCON  
 G.T.S.-2 TOTAL STATION.

NOTE: NOT IN FLOOD HAZARD ZONE  
 PER H.U.D. MAPS.  
 DATE 2/4/1991 SCALE 1"=100'



L. Stewart Solomon  
 P.L.S. 1814

EXHIBIT "A"



To County

P.O. Box 6  
415 Highway 53 E. Suite 100  
Dawsonville, Georgia 30534



(706) 265-3256  
Fax (706) 265-4214  
www.dawsonville-ga.gov

W. James Grogan  
Mayor

July 27, 2017

**CERTIFIED MAIL**

Mr. Billy Thurmond  
Board of Commissioners  
Dawson County  
25 Justice Way, Suite 2313  
Dawsonville, GA 30534

Re: Annexation of Property of LCG Residential LLC: ANX# 17-001

Dear Mr. Thurmond,

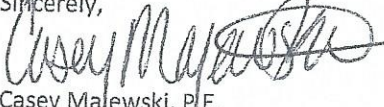
Please be advised that the City of Dawsonville, Georgia, pursuant to authority vested in the Mayor and Council of the City of Dawsonville by Article 2, Chapter 36, Title 36 of the Official Code of Georgia Annotated, received a petition to annex the property referenced above. This annexation petition will be heard during the public hearing segment of the following City Council meetings; September 11, 2017 at 5:00pm and October 2, 2017 at 5:00pm.

This letter has been sent to you by certified mail, return receipt requested, upon receipt of the Annexation Petition of LCG Residential LLC. Said notice is in compliance with O.C.G.A. §§ 36-36-6, and 36-36-111. Please see the attached copy of the annexation petition and map of the site proposed to be annexed, which are included to allow you to identify the subject area, as well as the intended use of the property.

Pursuant to O.C.G.A. § 36-36-113, upon receipt of this notice Dawson County has thirty (30) calendar days to raise an objection to the proposed use of the above referenced land, and to specify the basis therefore.

Finally, in accord with O.C.G.A. § 36-36-7, Dawson County has five (5) business days from the receipt of this notice to notify the City that there are County-owned public facilities within the area proposed for annexation.

Thank you for your time and attention to this matter, and I look forward to hearing from you regarding this issue. If I may be of assistance in this regard or any other, please do not hesitate to contact me.

Sincerely,  
  
Casey Majewski, P.E.  
Planning Director  
City of Dawsonville

Enclosures

cc: David Headley, County Manager  
M. Lynn Frey III, County Attorney  
Bob Bolz, City Manager

FIRST READING 09/18/2017  
SECOND READING 10/02/2017  
PUBLICATION DATES 8/23, 08/30, 09/13, 09/20

**ORDINANCE #2017-02**

**AN ORDINANCE FOR THE PURPOSE OF PROVIDING FOR REGULATION AND FRANCHISE FEES FOR STATE AND FEDERAL UTILITY FRANCHISES; FOR REVISING AND CORRECTING THE TELECOMMUNICATIONS SERVICES FRANCHISES AND LICENSES ORDINANCE; TO PROVIDE FOR REPEALER; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the Mayor and Council of the City of Dawsonville are charged with the protection of the health, safety and general welfare of the public and public facilities such as streets, sidewalks and infrastructure; and

**WHEREAS**, technology changes have resulted in new and different requests by utility providers for access to and use of the City's rights of way for provision of utility services; and

**WHEREAS**, in addition to utilities that have existing franchise agreements with the City, there are now utilities that have either state or federal franchises that desire to locate in the City and it is appropriate for the City to regulate and set a franchise fee for said utilities within the City limits; and

**WHEREAS**, the Telecommunications Services Franchises and Licenses Ordinance as passed by the City in 2000 contained some errors and repetitive provisions that need to be corrected into a more usable ordinance to the benefit of franchise and license applicants, City staff and the public;

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

**Section 1.**

The Code of Ordinances of the City of Dawsonville is amended by deleting Article I and Article II of Chapter 12 Telecommunications Franchises, Cable Television and Related Facilities adopting a new Article I and Article II of a retitled Chapter 12 Franchises, Telecommunications Franchises and Facilities to read as follows:

**Chapter 12. Franchises, Telecommunication Franchises and Facilities**

**ARTICLE I. – IN GENERAL**

**Sec 12-1. – State and Federal Franchises; Regulations and Fees**

In the event a utility provider that has been granted a Franchise by the State of Georgia or by the United States of America seeks to locate in the city limits and provide services, said utility provider shall comply with all applicable laws and regulations (federal, state and city). In the

absence of a franchise agreement with the city or a separate city ordinance establishing franchise terms with the utility provider, the franchise fee for said utility provider shall be 5% of all billings to customers located within the city or if none, 5% of all revenues generated from the facilities located within the city.

Sec. 12-2 through 12-18. – Reserved

## ARTICLE II. – TELECOMMUNICATIONS SERVICES FRANCHISES AND LICENSES

Sec. 12-19. - Purpose.

The purpose of this article is to establish a competitively neutral policy for usage of public rights-of-way for the provision of telecommunications services and enable the city to:

- (1) Permit nondiscriminatory access to the public rights-of-way for providers of telecommunications services;
- (2) Manage the public rights-of-way in order to minimize the impact and cost to the citizens of the placement of telecommunications facilities within the rights-of-way;
- (3) Obtain fair and reasonable compensation for the commercial use of public rights-of-way through collection of rents;
- (4) Promote competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the city; and
- (5) Minimize the congestion, inconvenience, visual impact, and other adverse effects on the city's public rights-of-way.

Sec. 12-20. - Definitions.

For purposes of this article, the following terms, phrases, words, and their derivations shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number.

*Affiliated person* means each person who fall of the following categories:

- (1) Each person having, direct or indirect, interest in the applicant;
- (2) Each person in which the applicant has, a controlling interest;
- (3) Each officer, director, joint venturer or joint venturer partner of the applicant; and
- (4) Each person, directly or indirectly, controlling, controlled by, or under common control with the applicant, provided that "affiliated person shall in no event mean the city or any creditor of the applicant solely by virtue of its status as a creditor and which is not otherwise an affiliated person by reason of owning a controlling interest in, being owned by, or being under common ownership, common management or common control with the applicant.

*Cable services* means "cable services" as defined in the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996, and as may be further amended from time to time (the "Cable Act"), but does not include telecommunications services or private telecommunications services. In the event that the term "cable services" is no longer defined in the Cable Act or the definition in the Cable Act otherwise becomes

inapplicable, the term "cable services" shall mean "cable services" as defined in the Cable Act immediately prior to such term no longer being defined in the Cable Act or such definition otherwise becoming inapplicable.

*Cable system* means any "cable system" as defined in the Cable Act.

*City* means the City of Dawsonville, Georgia.

*City council* means the city council of the city and its designee or any successor thereto.

*Control* or *controlling interest* means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments, or negative control, as the case may be, of the applicant or the telecommunications system in the streets. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or group of persons acting in concert of more than five percent of any person (which person or group of persons is hereinafter referred to as "controlling person"). The term "control" or "controlling interest," as used herein, may be held simultaneously by more than one person or group of persons.

*Franchise* means an initial authorization, or renewal thereof, issued by the city in accordance with the provisions of this article, which authorizes the occupation and use of the streets to provide telecommunications services.

*Grantee* means the legal entity to which is granted the right, authority, and responsibility to construct, install, operate, and maintain a system of equipment as necessary to:

- (1) Furnish, supply, and distribute telecommunications services to any locations or persons in the franchise or license area;
- (2) Provide private telecommunications services along licensed routes pursuant to a license; or
- (3) Transport telecommunications services across the city along licensed routes pursuant to a license without terminating or originating any telecommunication services at or from any person or location in the city.

*May* is permissive.

*Ordinance* means this article and all modifications and amendments thereto.

*Person* means an individual or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for profit or not for profit, but shall not mean the city.

*Private telecommunications services* means the transmission of telecommunications by a person, regardless of the facilities used, for or in connection with the internal operations of such person's business, residence, or employment and not for or in connection with the provision or offering of telecommunications services for sale or resale to any person, and shall not mean cable services.

*Revocable license* means an initial authorization or renewal thereof issued by the city in accordance with the provisions of this article which authorizes the occupation and use of specifically identified streets, provided that a revocable license shall be issued only in the limited circumstances set forth in section 12-21(a)(2) below.

*Shall* is mandatory, not merely directive.

*Streets* means the surface of, as well as the spaces above and below, any and all streets, alleyways, avenues, highways, boulevards, driveways, bridges, tunnels, parks,

parkways, public grounds or waters, and other public right-of-way within or belonging to the city.

*Telecommunications* means "telecommunications" as defined by 47 USC § 153(43) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, but shall not include cable services.

*Telecommunications service* means "telecommunications service" as defined by 47 USC § 153(46) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, but shall not include cable services. In the event that "telecommunications service" is no longer defined in the Communications Act or the definition in the Communications Act otherwise becomes inapplicable, "telecommunications service" shall mean "telecommunications service" as defined in the Communications Act immediately prior to such term no longer being defined in the Communications Act or such definition otherwise becoming inapplicable.

*Telecommunications system* means the system in the franchise or license area over which telecommunications service or private telecommunications service is provided and to be constructed, operated, and maintained by a grantee pursuant to a franchise or license ordinance or agreement.

Sec. 12-21. - Granting authority.

- (1) No person shall use or occupy the streets to provide any telecommunications services or private telecommunications services or operate a telecommunications system without a franchise or revocable license granted in accordance with the provisions of this article. The city intends to exercise its authority to franchise or license persons pursuant to this article to the maximum extent permitted by applicable law, including the 1996 Act.
- (2) A person shall not use or occupy the streets to provide any telecommunications services or operate a telecommunications system without a franchise, except that such person may use or occupy specific streets without a franchise if the person obtains a revocable license in accordance with the terms of this article. A revocable license is intended to be a limited grant of authority to use and occupy specifically identified streets and may be granted only if the use or occupation of such streets is for the sole purpose of providing private telecommunications services, shall be granted to provide telecommunications services only if the use or occupation of such streets, together with the use or occupation of any streets pursuant to revocable licenses previously granted to such person and affiliated persons, shall not exceed 500 linear feet, or shall be granted only if the use or occupation of such streets is by a telecommunications system that is not used by the grantee or any other person to sell, resell, or otherwise provide telecommunications services to any person in the city. In the event an application for a revocable license would cause a person to exceed or fail to comply with the limits specified in this section, then such person must apply for a franchise in accordance with the provisions of this article, and the use of specifically identified streets pursuant to all previously granted revocable licenses shall thereafter be pursuant to and in accordance with any such franchise that may be granted.
- (3) The city council may grant one or more franchises or revocable licenses in accordance with this article, provided that the city council reserves the right to modify any provision of this article by amendment hereof.

- (4) The grant of any franchise or revocable license shall be made by adoption of a separate ordinance by the city council or by a franchise or license agreement between the city and the grantee and shall be on such terms and conditions as may be specified in such separate ordinance or in the franchise or license agreement between the city and the grantee.
- (5) Any franchise or revocable license granted shall not be exclusive. The city specifically reserves the right to grant, at my time, such additional franchises or revocable licenses as it deems appropriate, and/or itself engage in the provision of telecommunications services or private telecommunications services.
- (6) A franchise may be granted for all or any defined portion of the city. A revocable license may only be granted for use of specifically identified streets.
- (7) The grant of franchises and revocable licenses to persons providing telecommunications services by the city shall be subject to the provisions of applicable law, such as the provisions in the 1996 Act, as amended, governing telecommunications franchises and renewals thereof.

Section 12-22.- Franchise applications.

- (1) Applications for franchises and revocable licenses shall be submitted in such form and be issued on such terms and conditions as the city council may determine, subject to applicable law. Applications for a franchise or revocable license may be submitted in person at City Hall or by mail to the City of Dawsonville, P.O. Box 6, Dawsonville, Georgia, 30534 or at such future address as may be specified by the City.
- (2) Eight copies of the application and all supporting documentation shall be submitted in typed form. Application responses must be completed using the letter and number format as indicated on the application. Applications for a franchise or revocable license shall contain and/or require the following information with respect to the proposed franchise or revocable license and such other information as the city council shall deem necessary or appropriate:
  - a. Applicant's name, address, telephone number, and federal employer identification number or social security number; copy of applicant's corporate charter or partnership agreement as applicable; and any trade names and registrations used by the applicant;
  - b. A detailed statement of the corporation or business organization of the applicant, including, but not limited to, whatever extent required by the city:
    1. The names and the residence and business addresses of all officers and directors of the applicant;
    2. The names, residence and business addresses of all persons and entities having any share of the ownership of the applicant and the respective ownership share of each person or entity;
    3. The names and addresses of any parent or subsidiary of the applicant, namely, any entity owning or controlling the applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity;
    4. For purposes of determining whether an applicant has the financial ability to construct and maintain the telecommunications system in a safe manner and in accordance with the city's management policies, rules, and regulations

with respect to the streets and to the extent not prohibited by law, a detailed and complete financial statement of the applicant, certified by an independent certified public accountant, for the fiscal year immediately preceding the date of the application hereunder; or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the council, setting forth the basis for any conclusions by such lending institution or funding source regarding the applicant's financial ability to construct and maintain the proposed telecommunications system, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and maintain the proposed telecommunications system in the city; or a statement from an independent certified public accountant certifying that the applicant has available sufficient free, net, and uncommitted cash resources to construct and maintain the proposed telecommunications system in the city; and

5. For purposes of determining whether the applicant will construct, maintain, operate, and repair the telecommunications system in compliance with the policies, rules, and regulations with respect to the streets and in a manner protective of the public health, safety, and welfare, the names and addresses for telecommunications systems owned or controlled by the applicant, its parent, and subsidiaries, and the areas served by such systems.
- c. In order to permit the city to manage its streets, a detailed description of the proposed plan of construction and maintenance of the applicant which shall include, but not be limited to, the following:
1. A detailed map indicating all areas proposed to be served and a proposed time schedule for the installation of all equipment throughout the entire area to be serviced;
  2. A detailed, informative, and referenced statement describing the proposed and actual location of facilities and equipment to be used in the streets by the applicant; and
  3. For purposes of assisting the city in determining whether the telecommunications system will be constructed in accordance with the city's management policies, rules, and regulations with respect to the streets, a detailed statement setting forth the provisions in any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation which materially relate or pertain to such person, firm, or corporation constructing or assisting the applicant with the construction of the telecommunications system in the streets; and
  4. To the extent not prohibited by law, any other details, statements, supplementary information, or references pertinent to the subject matter of such application which shall be required or requested by the council or by any other provision of law.
- d. It shall be the responsibility of each applicant for a franchise or revocable license to comply with all applicable laws, ordinances, resolutions, rules, regulations, and other directives of the city and any federal, state, or local governmental authority having jurisdiction.

- e. The application shall be signed and dated by the applicant with the official title of the signatory for the applicant indicated thereon. The city shall date stamp the application when it is received by the city.
- f. To the extent determined by the city council or required by state law, applications for franchises or revocable licenses, including any additions, modifications, or amendments thereto, shall be available for public inspection at a designated city office during normal business hours.

Section 12-23.- Application fees for new franchises and revocable licenses.

- (1) No application for a new franchise or revocable license shall be considered without payment by the applicant of application fees as provided in this section. If a franchise or revocable license is granted, application fees will not be deemed a credit towards any other fees or sums due by the grantee. If an application is denied, the application fee will not be refunded, except if required by law.
- (2) The application fees provided by this section will serve to cover the direct and indirect costs incurred by the city in processing the application, evaluating the applicant, and granting a franchise and shall include, but not be limited to, administrative, engineering, publication, legal, and consultant's expenses.
- (3) The applicant will be expected to pay the reasonable costs of the city in evaluating the application. Notwithstanding any other requirement of this article, each applicant for a franchise must furnish with its proposal a refundable application fee in the amount established in section 2-110 by certified check or cashier's check made payable to the city, and each applicant for a revocable license must furnish with its proposal a refundable application fee in the amount established in section 2-110 by certified check or cashier's check made payable to the city. In the event the city's reasonable costs exceed such amount, the applicant may be required by the city to pay any additional amount to cover such costs. In the event the city's reasonable costs are less than the application amount, the city may reimburse to the applicant the amount in excess of the city's actual cost if required by applicable law.

Section 12-24.- Evaluation criteria.

An applicant shall be granted a franchise or revocable license to provide telecommunications services, provided the city council reasonably determines that the applicant has agreed to or meets the following factors and such terms, conditions, and other factors as the city council deems appropriate and not prohibited by applicable law:

- (1) The adequacy of the proposed compensation to be paid to the city, including the value of any in-kind facilities and telecommunications services offered by the applicant to the city;
- (2) The financial and technical ability of the applicant to construct and maintain a telecommunications system in the streets and a certificate of public convenience or other authorization from the state or federal communications services in the city;
- (3) The ability of the applicant to maintain the property of the city in good condition throughout the term of the franchise;
- (4) The willingness and ability of the applicant to meet construction and physical requirements and to abide by all purpose and policy conditions, limitations, and requirements with respect to the franchise, the public health, safety, and welfare, and the city's management of streets; and



- (5) To the extent not prohibited by law, any other factors and considerations deemed pertinent by the city for safeguarding the interests of the city and the public. In making any determination hereunder as to any application for a revocable license to provide private telecommunications services and in accordance with applicable law, the city council may consider such factors as it deems appropriate and in the public interest, including, without limitation, the foregoing factor to the extent applicable.

Section 12-25. - Procedure for consideration of and action on applications.

- (1) The city may make such investigations and take or authorize the taking of such other steps as the city council deems necessary or appropriate to consider and act on applications for franchises or revocable licenses and may require the applicant to furnish additional information and data for this purpose. In considering applications, the city council may seek advice from other city officials or bodies, from such other advisory bodies as it may establish or determine appropriate, or from the public and may request the preparation of one or more reports to be submitted to the city council, which may include recommendations with respect to such applications.
- (2) After considering such information as it determines to be appropriate, the city council shall set one or more public hearings for consideration of the application, fixing and setting forth a day, hour, and place certain when and where any persons having any interest therein or objections thereto may file written comments and appeal before the city council and be heard and providing notice of such public hearing in accordance with applicable law.
- (3) The city council may authorize negotiations between officials and applicants on the terms of the proposed franchise or revocable license.
- (4) Upon completion of the steps deemed appropriate by the city council, the city council shall consider the application for a franchise or revocable license to provide telecommunications services in accordance with this article and applicable law, including 47 USC § 253, and shall grant the franchise or revocable license, provided that the applicant has agreed to the terms on which the franchise or revocable license is to be granted and meets the evaluation criteria set forth in subsection (f) of this section. The city also reserves the right to waive any or all requirements when it determines that the best interests of the city may be served thereby or that such waiver is required by applicable law.
- (5) Upon completion of the steps deemed appropriate by the city council, the city council may grant the revocable license to provide private telecommunications services and may specify the conditions under which the revocable license is granted. Alternatively, the city may reject any and all applications for a revocable license to provide private telecommunications services. The city also reserves the right to waive any and all requirements when it determines that the best interests of the city may be served thereby.

Section 12-26. - Terms and conditions of franchise and revocable license.

The terms and conditions applicable to any franchise or revocable license granted pursuant to this article shall be set forth in the separate ordinance granting the franchise or revocable license or in a separate written agreement. Such separate ordinance or written agreement, among other things, may address the following subjects, to the extent not prohibited by law:

- (1) The term of the franchise or revocable license; however, the initial term of the revocable license shall not exceed five years and shall not be renewed for terms exceeding five years;

- (2) The franchise area under the franchise, or the streets that may be used pursuant to the revocable license;
- (3) The compensation to be paid to the city, which may include the payment of fees or the provision of facilities or services, or both;
- (4) The circumstances upon which the franchise or revocable license may be terminated or canceled;
- (5) The mechanisms, such as performance bonds, security fines, or letters of credit, to be put in place to ensure the performance of the grantee's obligations under the franchise or revocable license;
- (6) The city's right to inspect the facilities and records of the grantee;
- (7) Insurance and indemnification requirements applicable to the grantee;
- (8) The obligation of the grantee to maintain complete and accurate books of account and records, and the city's inspection rights with respect thereto;
- (9) Provisions to ensure quality workmanship and construction methods;
- (10) Provisions to ensure that the grantee will comply with all applicable city, state, and federal laws, regulations, rules, and policies;
- (11) Provisions to ensure adequate oversight of the grantee by the city;
- (12) Provisions to restrict the assignment or other transfer of the franchise or revocable license without the prior written consent of the city;
- (13) Remedies available to the city to protect the city's interest in the event of the grantee's failure to comply with terms and conditions of the franchise or revocable license;
- (14) Provisions to ensure that the grantee will obtain all necessary licenses and permits from and comply with all laws, regulations, rules, and policies of any governmental body having jurisdiction over the grantee, including, but not limited to, the Federal Communications Commission;
- (15) Provisions to ensure that the grantee will protect the property of the city from damage or interruption of operations resulting from the construction, operation, maintenance, repair, or removal of improvements related to the franchise or revocable license;
- (16) Provisions designed to minimize the extent to which the public use of the streets of the city are disrupted in connection with the construction of improvements relating to the franchise or revocable license; and
- (17) Such other provisions as the city determines are necessary or appropriate, to the extent not prohibited by law.

Section 12-27. - Revocation of revocable license.

The revocable license shall be revocable at any time by the city for cause or, if the revocable license is for the provision of private telecommunications services, for the city's convenience. The revocable license, together with all revocable licenses granted to the applicant or affiliated persons, shall not authorize the occupation and use of more than 500 linear feet of specifically identified streets, unless the use or occupation of the streets does not involve the offering or provision of telecommunications services by the grantee, any affiliated persons, or any other persons to or from any person or location in the city.

Sec. 12-28 through 12-49. – Reserved

Section 3. Repealer and Restatement.

All ordinances and resolutions and parts thereof in conflict herewith are repealed. However, to the extent not in conflict, all remaining ordinances, resolutions or parts thereof including but not limited to Article III Telecommunication Towers and Facilities of Chapter 12 shall not be amended or repealed and shall remain in full force and effect, except as expressly stated in this ordinance.

Section 4. Effective Date.

This ordinance shall take effect and be in force from and after its adoption.

SO ADOPTED this 2 day of October, 2017.

By: CITY OF DAWSONVILLE

ABSENT

Mayor W. James Grogan

Caleb Phillips

Councilmember Caleb Phillips

Jason Power

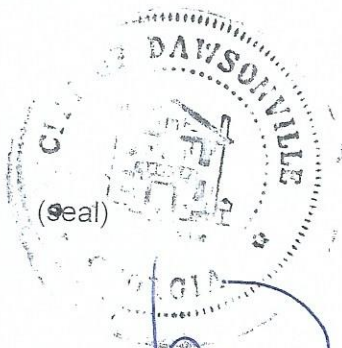
Councilmember Jason Power

Angie Smith

Councilmember Angie Smith

Mike Sosebee

Councilmember Mike Sosebee



Attested:

Deborah A. Baister  
City Clerk/Deputy City Clerk