

A G E N D A

REGULAR MEETING OF MAYOR AND COUNCIL OF OCTOBER 19, 2015

6:00 P.M. Work Session

- Discussion of Agenda Items
- City Manager's Report

I. Call to Order – 7:00 p.m. – Mayor David Lockhart

II. Invocation

III. Pledge of Allegiance

IV. Roll Call

V. Approval of Minutes

1. Work Session of Mayor and Council October 5, 2015
2. Regular Meeting of Mayor and Council October 5, 2015
3. Special Called Meeting of Mayor and Council of October 12, 2015

VI. Comment Period

VII. Agenda Items

1. Proclamation to Fire Department Competition Team
2. Presentation of Residential and Business Beautification Awards – Edie Yonge, Keep Forest Park Beautiful
3. Consider new On-Premises Consumption Alcohol License for Mexican Restaurant Las Tortas, Inc., Las Tortas, 5592-5594 Old Dixie Highway, no exceptions noted
4. Consider new On-Premises Consumption Alcohol License for Los Broncos Mexican Restaurant, Los Broncos, 4510 Jonesboro Road, no exceptions noted
5. Consider renewal of retail alcohol license for liquor, beer and wine from Chamunda Corporation, Dixie Package, 5310 Old Dixie Highway, no exceptions noted

6. Consider appointment to Ethics Board – Ward 1 and Ward 4
7. Consider an Ordinance to amend Chapter 2, Building Regulation and Code Enforcement, of Title 8, Planning and Development, of the Code of Ordinances by enacting Article Q, Foreclosed and Vacant Property Registry; to repeal any conflicting ordinances; to provide an adoption date; to provide an effective date; and for other purposes
8. Discussion of Managerial Assessment Proposal
9. *Tabled from October 4, 2015 Meeting:* Consider a Resolution of the City of Forest Park finding Comcast in Default of Cable Television Franchise Agreement for failure to remit franchise fees in accordance with Cable Television Franchise Agreement and discuss pending settlement negotiations and authorization for Mayor to execute Settlement Agreement after approval by City Attorney

VIII. Legal Matters

IX. Comments by Governing Body

X. Adjournment

MINUTES

WORK SESSION OF MAYOR AND COUNCIL OF OCTOBER 5, 2015

Call to Order: The Work Session of Mayor and Council of October 4, 2015 was called to order by Mayor David Lockhart at 6:00 p.m.

Present: Mayor David Lockhart and Councilmembers Latresa Akins, Maudie McCord, Tommy Smith, Dabouze Antoine and Linda Lord.

Also present were Interim City Manager Al Wiggins, Director of Finance Mike Blandenburg, Major Tommy Orr, Deputy Director of Planning and Zoning Johnathan Jones, Deputy Director of Recreation and Leisure Services Sharon Smith, Management Analyst Angela Redding, Chief Eddie Buckholts, Director of Support Services Christine Terrell and City Attorney Winston Denmark.

Agenda Items: *Public Hearing:* Mayor Lockhart stated the State has changed the law prohibiting the sale of fireworks and there are some requirements and restrictions on municipalities requiring us to make certain provisions for the sale and use of fireworks and prohibiting us from taking certain limiting actions.

Mr. Wiggins stated this Ordinance has been approved by the Planning Commission and is a result of changes in state law. The ordinance does allow for local jurisdictions to regulate locations that sell or manufacture fireworks.

Chief Buckholts stated we have limited the manufacture and sale of fireworks to light industrial areas so there are not box retail store going in strip malls. He stated we are limiting the areas that they will be allowed to sell fireworks. Chief Buckholts stated this could all be changing the first of the year.

Ordinance – Special Revenue Funds: Mr. Blandenburg stated the Special Revenue Funds consist of Grant funds such as hotel motel tax funds and E911 funds.

Ordinance – Solid Waste: Mr. Eady stated this is a housekeeping measure to insure the code is consistent with the Waste Management Contract. Changes made include 1) homeowners can now go through the open market for roll off containers and they do not have to use Waste Management and 2) each resident is allowed 2 containers, 1 recycling and 1 for household garbage or 2 for household garbage if they do not want to recycle.

Resolution – Comcast: Mayor Lockhart stated the City Attorney had contacted Comcast after an audit was performed through GMA on franchise fees. Comcast agreed they owed some \$24,000 then disputed that. He stated our City Attorneys sent this resolution asking we approve suit against Comcast, but an agreeable resolution is very close with Comcast now. He recommended the Resolution be adopted, but continue settlement negotiations.

Ms. Traylor was present from Comcast. She explained under the franchise agreement still in existence, the prior practice had been to pay franchise fees on gross revenues but not including the pass through amounts that we actually collect from our subscribers to pay those franchise fees. She stated a court case in 1997 established localities could in fact impose the franchise fees on those pass through amounts, referred to as a fee on fee franchise fee. She stated a letter was sent to the City in April of 1998 asking what the City wanted to do. She stated she has a letter from the Mayor in 1998 stating no, do not collect those additional fees. She stated from 1998 until present, they proceeded by not including those additional fees. She stated they believed they were acting in good faith by a letter signed by the Mayor at the time.

Ms. Traylor stated they presented 2 different versions to the settlement agreement, more of a traditional settlement agreement with parallel mutual release language where Comcast is releasing exactly the same scope of claims and rights that the City is releasing Comcast from, however that was declined by the City. She stated they also proposed a very simple letter agreement that says here's how much we will pay and releases us from the franchise fees owed through this particular date. She stated she has both signed settlement agreements.

Mayor Lockhart stated the issue for the City is Comcast says they will pay and won't execute an agreement the City Attorney has recommended. The City Attorney recommends suit, but Comcast is insistent they won't make us sue.

Ms. Traylor stated she is authorized to settle for the \$24,000 amount with one of the two settlement documents provided to the City Attorney. She stated the approximate \$7 will get passed on to our subscribers in Forest Park and then we would begin paying on a regular basis with the additional fee on fee.

Mayor Lockhart stated we prefer to sign a settlement agreement with the additional money without filing suit. If we don't authorize suit, they have no reason to sign the agreement.

Mayor Lockhart asked if Comcast was willing to sign the settlement agreement from our attorneys. She stated no, we are asking that the scope of what Comcast released the City of to be exactly the same as what the City is releasing Comcast of. She stated that is standard settlement procedure.

She stated the agreement prepared by the City Attorney states Comcast will release the City of everything and felt it was not a fair release. Mayor Lockhart stated it does not release Forest Park of liability to Comcast for future acts. Mayor Lockhart stated the City cannot sign their release because it is not what our City Attorney recommended and Comcast owes us money, and we are willing to take the money and say, upon payment of this money that is owed, you don't owe us anymore money for these very same things. He stated Comcast presented release documents, but why we would prefer a broader release than what we are willing to give Comcast, because it is in our interest and we represent the people of Forest Park and it's in our interest to have that broader release.

Ethics Board
Vacancies:

2 vacancies on Ethics Board: Mr. Wiggins stated there are 2 vacancies on the Ethics Board, Ward 1 and Ward 4 and the Ward 3 appointment has expired.

Used Car Sales:

Ordinance prohibiting used car sales in C-3 Zoning District: Ms. Akins stated she had been approached by someone concerning the lot on Forest Parkway that used to be a used

car lot. There is an Ordinance that prohibits used car sales on Forest Parkway. She stated they want to open this business again.

Mayor Lockhart asked if she wants the Council to change the Ordinance to allow used car lots on Forest Parkway. She stated we would have to change it for anyone to open a used car lot.

Mr. Wiggins stated the premise behind the ordinance was to have some type of controls over the aesthetics of our arterial corridors. He stated this issue has come up before and they needed a rezoning. If they had gotten a rezoning, it would have to come back for a variance because the ordinance restricts used car sales in a C-3 zoning category but they were also deficient in the minimum lot size requirements, that require 2 acres and 200 feet of road frontage. It was declined at that time.

Mr. Don Christopher addressed the Council. He stated we are proposing to place higher end automobiles there. There would be no repair work done. He stated we want a more upscale business there. He stated improvements on the property would include a sound barrier, privacy fence to act as both a sound barrier and sight barrier. He stated they own the house directly behind this property and have a vested interest in the tenant. It would include lighting, paving the parking lot and wrought iron fences.

Mr. Wiggins asked if the proposal today would be to either modify or eradicate the ordinance. He stated if the ordinance was eradicated, it would allow car lots along Forest Parkway, regardless of the lot size requirements or frontage issues. He stated it could be done two ways. He stated there could be some language that allows this particular location to operate.

Mr. Denmark stated we have offered 3 recommendations. He stated 1) you could have a moratorium on the enforcement of the prohibition 2) change the zoning classification and make used cars lots a permitted use in the C-3 Zoning and 3) the applicant apply to rezone that particular parcel.

Ms. Akins asked if the moratorium would be the easiest route. Mr. Wiggins stated if the immediate concern would be to allow the car lot where the previous business operated,

even with a moratorium on the ordinance, his concern is there is currently a prohibition in the ordinance but there is not any language for that being an allowable use. Mr. Wiggins asked would the language have to be removed as far as the prohibition and would there have to be language to add to the C-3 zoning that would provide an allowance for used car sales. Mr. Denmark stated if there was a moratorium on the prohibition, that would be sufficient. He stated we would have to justify a moratorium, and not sure we could meet all the facts and circumstances that the law requires.

Mr. Wiggins stated whatever direction the council decides to take, they can craft the correct language in order to make that happen. He felt we could write an ordinance for a special land use permit to allow for that type of location and could do it on an individual basis, but they are usually issued on a finite period of time.

Ms. Lord stated her concern was the number of cars that could be put on that small lot and pulling out onto Forest Parkway.

Mr. Wiggins stated also we may be able to do a conditional rezoning. The property could be rezoned and retain its current C-3 classification with conditions.

Managerial Assessment Study: Mr. Dabouze asked that the proposals submitted for the managerial assessment study be given to Council.

Adjournment: Ms. McCord made a motion to adjourn, seconded by Ms. Lord. Voting for the motion was unanimous.

MINUTES

REGULAR MEETING OF MAYOR AND COUNCIL OF OCTOBER 5, 2015

- Call to Order: The Regular Meeting of Mayor and Council of October 4, 2015 was called to order by Mayor David Lockhart at 7:15 p.m.
- Invocation: The invocation was given by Dr. Leon Beeler followed by the Pledge of Allegiance to the American Flag.
- Roll Call: Mayor David Lockhart and Councilmembers Latresa Akins, Maudie McCord, Tommy Smith, Dabouze Antoine and Linda Lord.

Also present were Interim City Manager Al Wiggins, Director of Finance Mike Blandenburg, Major Tommy Orr, Deputy Director of Planning and Zoning Johnathan Jones, Deputy Director of Recreation and Leisure Services Sharon Smith, Management Analyst Angela Redding, Chief Eddie Buckholts, Director of Support Services Christine Terrell and City Attorney Winston Denmark.

- Approval of Minutes: Request was made to consider approval of the following minutes:

1. Work Session of Mayor and Council of August 3, 2015
2. Regular Meeting of Mayor and Council August 3, 2015
3. Special Called Meeting of Mayor and Council of August 6, 2015
4. Work Session of Mayor and Council of August 17, 2015
5. Regular Meeting of Mayor and Council of August 17, 2015
6. Work Session of Mayor and Council of September 8, 2015
7. Special Called Meeting of Mayor and Council of September 8, 2015
8. Regular Meeting of Mayor and Council of September 8, 2015
9. Work Session of Mayor and Council of September 21, 2015
10. Special Called Meeting of Mayor & Council of September 21, 2015

11. Regular Meeting of Mayor and Council of September 21, 2015

12. Special Called Meeting of Mayor & Council of September 29, 2015

Ms. Akins made a motion to approve the minutes, seconded by Mr. Smith. Voting for the motion was unanimous.

Comment
Period:

Carl Evans – asked that the City look into the street paving program because he was told those streets were going to be repaved after Atlanta Gas had finished installing their lines.

Lawanda Folomi – thanked Public Works for the outstanding job they did on Jonesboro Road near the bank and said they really enjoyed National Night Out. She also asked if the City could look into the costs associated with parks and recreation so parents that have 4 or 5 children can participate.

Ralph Nobles – asked the City to nullify the seatbelt law in Forest Park

Shelly Gaywell – stated Main Street has been looking great this summer. She also informed the citizens there is an abortion clinic at 531 Forest Parkway. Also, she stated there is a large amount of litter on the Forest Parkway exit.

Wanda Miller Curry – stated she has opened a business at 972 Main Street which addresses the needs of women and children who are victims of domestic violence and wanted to let citizens know they are a new resource here in the City.

Dr. Beeler – informed everyone there will be a political forum for all candidates at the Community Recreation Building on October 12 from 6:00 p.m. – 9:00 p.m.

Public Hearing:

Ms. Akins made a motion to recess for a Public Hearing, seconded by Ms. Lord. Voting for the motion was unanimous.

Ms. Akins made a motion to open a Public Hearing, seconded by Ms. Lord. Voting for the motion was unanimous.

Mayor Lockhart opened the public hearing to receive comments on the Ordinance to amend Title 4, Police and Fire Services of the Code of Ordinances of the City by

repealing prohibitions against the use and sale of fireworks; to amend Title 8 Planning and Development, Chapter 8, Zoning, by creating definitions regarding fireworks; to amend the permitted uses in the light industrial and Gillem zoning district; to prohibit the manufacture of explosives and fireworks.

Mayor Lockhart stated this ordinance provides for a place for fireworks to be sold as required by State law.

Ms. Lord made a motion to close the Public Hearing and reconvene the meeting, seconded by Ms. McCord. Voting for the motion was unanimous.

Ordinance-
Special
Revenue Funds:

Request was made to consider an Ordinance by the Governing Body of the City of Forest Park, Georgia establishing the Budgets for Special Revenue Funds for the Fiscal Year 2015-2016.

Ms. Lord made a motion to approve the Ordinance, seconded by Mr. Smith. Voting for the motion was unanimous.

Ordinance-
Fireworks:

Request was made to consider an Ordinance to Amend Title 4, Police and Fire Services of the Code of Ordinances of the City of Forest Park, Georgia by repealing prohibitions against the use and sale of fireworks; to amend Title 8, Planning and Development, Chapter 8, Zoning, by creating definitions regarding fireworks; to amend the permitted uses in the light industrial and Gillem zoning districts; to prohibit the manufacture of explosives and fireworks; to provide for codification; to provide for severability; to repeal conflicting ordinances; to provide an effective date; and for other purposes.

Chief Buckholts stated this ordinance puts us in line with State law and gives them a place to sell fireworks.

Ms. McCord made a motion to approve the Ordinance, seconded by Mr. Smith. Voting for the motion was unanimous.

Ordinance -
Solid Waste:

Request was made to consider an Ordinance to amend Chapter 2 (Solid Waste) of Title 5, (Public Works) of the Code of Ordinances, City of Forest Park, Georgia; to amend the Definitions, a Provision regarding preparation and storage of residential refuse for Collection, and a provision regarding

container and compactor services; to provide for codification; to provide for severability; to repeal conflicting ordinances; to provide an adoption date; to provide an effective date; and for other purposes allowed by law.

Ms. Lord made a motion to approve the Ordinance, seconded by Mr. Smith. Voting for the motion was unanimous.

Resolution:
Comcast:

Request was made to consider a Resolution of the City of Forest Park finding Comcast in Default of Cable Television Franchise Agreement for failure to remit franchise fees in accordance with Cable Television Franchise Agreement and discuss pending settlement negotiations and authorization for Mayor to execute Settlement Agreement after approval by City Attorney.

Mr. Antoine made a motion to table this item, seconded by Ms. Akins.

Ms. Akins asked for a copy of the settlement agreement before voting on this item.

Mayor Lockhart explained the Resolution, if adopted, would give our attorneys the authority to file suit, but have asked, even if this Resolution is adopted, that we leave the door open in the case that Comcast wants to sign the settlement agreement that our attorneys have presented.

Voting for the motion were Mr. Antoine, Ms. McCord and Ms. Akins. Voting against the motion were Mr. Smith and Ms. Lord. The motion carried.

Ethics Brd:

Ms. Akins made a motion to appoint John Finch to the Ethics Board for Ward 4, seconded by Mr. Antoine. Voting for the motion was unanimous.

Mr. Smith and Ms. McCord stated they will address their appointments at the next meeting.

Discussion of
Used Car Lots:

Discussion was held on Ordinance prohibiting used car sales in the C-3 District.

Mr. Wiggins stated he needed clear guidelines on what the Council is trying to accomplish. He asked specifically, if we are trying to allow Round Up Motors to go back into operation, do we want to eradicate the Ordinance or do we

want Round Up Motors to come back into operation with the conditions that Council believes to be acceptable.

Mayor Lockhart stated there are several ways under which Round Up Motors could exist and operate as a used car dealership at that proposed location. He would like to know which way he should investigate.

- Remove all restrictions on the operation of used car lots
- Try to limit the ordinance drafting only to this location and only to Round Up Motors
- Discuss directly with Mr. Christopher about pursuing a variance

Mr. Wiggins stated in terms of negotiations with Mr. Christopher, he asked for guidelines on the direction the Council would like to go in.

Ms. Akins stated he should be held to his prior commitment of fencing and lighting. Ms. Lord stated it should be considered a new business and it would be easier on traffic if he exited from East Street, and not entering on the Parkway and that he does not overload the lot.

Mr. Wiggins stated if the Council would like to move forward with the applicants request, he could apply for a Conditional Rezoning and retain the C-3 zoning and put a conditional rezoning on the lot based upon the stipulations that the Council agrees to. He stated he felt he could now draft a proposal to come back before Council at the next meeting for approval or he could move forward with the rezoning process, through the Planning Commission. Their recommendation requires it come back before Council.

Mr. Wiggins stated he has enough information to put an application together based upon the Council's guidelines.

Managerial Assessment: Mayor Lockhart stated during the Work Session, Council requested copies of the proposals received for the Managerial Assessment.

Adjournment: Ms. Akins made a motion to adjourn, seconded by Mr. Smith. Voting for the motion was unanimous.

MINUTES

SPECIAL CALLED MEETING OF MAYOR & COUNCIL OF OCTOBER 12, 2015

- Call to Order: The Special Called Meeting of Mayor and Council of October 12, 2015 was called to order by Mayor David Lockhart at 5:45 p.m.
- Roll Call: Present were: Mayor David Lockhart and Councilmembers Latresa Akins, Dabouze Antoine, Linda Lord, Maudie McCord and Tommy Smith.
- Also present were Interim City Manager Al Wiggins and Director of Finance Mike Blandenburg.
- Renewal of Alcohol License: Request was made to consider renewal of a new On-Premises Consumption Alcohol License for liquor, beer and wine from Red Eyed, Inc. Crazy Horse, 4730 Frontage Road, Forest Park, no exceptions noted.
- Mr. Smith made a motion to approve the license for the on-premises consumption license from Crazy Horse, 4730 Frontage Road, seconded by Ms. Akins. Voting for the motion was unanimous.
- Adjournment: Ms. Lord made a motion to adjourn, seconded by Ms. Akins. Voting for the motion was unanimous.

DEPARTMENT OF POLICE SERVICES
Forest Park, Georgia

INTEROFFICE MEMO

DATE: October 5, 2015
CONTROL NO: CA153-2015

TO: Al Wiggins, Interim City Manager
FROM: L. Dwayne Hobbs, Director, Dept. of Police Services
SUBJECT: On-Premises Consumption Alcohol License (Beer & Wine)



****NEW****

RE: Mexican Restaurant Las Tortas Inc
Las Tortas
5592-5594 Old Dixie Hwy
Forest Park, Georgia 30297

Ricardo Ortega Rivera

NO EXCEPTIONS NOTED

DEPARTMENT OF POLICE SERVICES
Forest Park, Georgia

INTEROFFICE MEMO

DATE: October 5, 2015
CONTROL NO: CA155-2015

TO: Al Wiggins, Interim City Manager
FROM: L. Dwayne Hobbs, Director, Dept. of Police Services 
SUBJECT: On-Premises Consumption Alcohol License (Liquor, Beer & Wine)

*****NEW*****

RE: Los Broncos Mexican Restaurant LLC
Los Broncos
4510 Jonesboro Rd
Forest Park, Georgia 30297

Juan M. Garcia

NO EXCEPTIONS NOTED

DEPARTMENT OF POLICE SERVICES
Forest Park, Georgia

INTEROFFICE MEMO

DATE: October 1, 2015
NO: #207-2016

TO: Al Wiggins, Interim City Manager
FROM: L. Dwayne Hobbs, Director, Dept. of Police Services 
SUBJECT: Retail Alcohol License (Liquor, Beer & Wine)

*****RENEWAL*****

RE: Chamunda Corporation
Dixie Package
5310 Old Dixie Highway
Forest Park, GA 30297

Jyotsana H. Desai

NO EXCEPTIONS NOTED

Vacant Property Registration Ordinance

The purpose of the Vacant Property Registration Ordinance is to improve the social and economic health of the City of Forest Park by returning vacant properties to productive use and ensuring that owners maintain such properties as clean, safe and secure.

The National Vacant Properties Campaign has noted that “Vacant properties act as a significant fiscal drain on already strapped municipalities, requiring disproportionate municipal resources, while providing little or no tax revenue”.

Research has shown that vacant properties cause an:

- Increase in costs to the city
 - Police, Fire, Code Enforcement, Public Works
- Increase in crime in vacant buildings
- Increase in public nuisances that may result in public health or safety issues
- Decrease in property values – “Houses within 150 feet of a vacant building experience a net loss of \$7,627 in value. Properties within 150 to 300 feet experience a loss of \$6,819 and 300 to 450 feet \$3,542.” – 2001 Philadelphia study
- Decrease in property tax revenue - “failure of municipalities to collect even two to four percent of property taxes because of delinquencies and abandonment translates into \$3 to \$6 billion in lost revenues to local governments.” – Frank Alexander, Emory University Law School

Vacant properties lead to:

- Accumulation of garbage, waste and refuse that increase likelihood of pests in the neighborhood;
- Overgrown grass and vegetation;
- Open and accessible structures which can be occupied by squatters and transients or stripped of fixtures, wiring by thieves; and
- Unsecured backyards and empty pools which are inviting and dangerous to children and youth.

What does the proposed ordinance do:

- Requires vacant properties in the city to be registered and monitored (either by the owner, lender, servicer or other);

- Obtains accountability for the security, safety and maintenance of the vacant properties;
- Requires the condition of the property to be maintained to the neighborhood standard so that it can be successfully returned to productive use and
- Provides for penalties for failure to register, update changes, maintain and secure properties or provide false information. (Violators may face a citation or summons to court with judgment or conviction subject to penalties up to \$1,000 per occurrence or for each month the violation remains.)
- Does not set a “Registration Fee” (as most municipalities ordinances), but authorizes the payment of a one-time registration fee in an amount to be set by the City via resolution, and also requires reimbursement to city for any and all actual costs incurred by the city in registration, inspection, enforcement or abatement.

We are not the first area municipality to create such an ordinance.

- “As of May 2012, there were more than 550 local vacant property registration ordinances in the United States, increased from fewer than 20 in 2000. –HUD Cityscape: A Journal of Policy Development and Research, Vol. 15, No.2, 2013. Over the past several years, at least fifty-seven (57) municipalities in Georgia (including neighbors Lake City, Lovejoy, Jonesboro, Riverdale and Stockbridge as well as Hapeville, Atlanta, Dekalb, East Point, Fairburn, Fulton, Union City, Hampton, Fayette, Gwinnett and Rockdale), joined the national trend of passing vacant property registration (VPR) ordinances.

Primary responsibility for implementation of the ordinance will be the Planning, Building and Zoning Department. The Department will register all identified vacant buildings. The Code Enforcement Division will be responsible for investigating, surveying and classifying vacant properties through proactive inspections, complaints from residents and referrals from other agencies and organizations and enforcement of building codes.

Other participating departments include:

- **Environmental Court** – Adjudicates cases for non-compliance with the ordinance.
- **Police** – Assists in discovering, receiving and routing complaints regarding vacant buildings, answers calls concerning possible crimes.
- **Fire** – Assists in discovering, receiving and routing complaints regarding vacant buildings, answers calls concerning fires in vacant buildings.
- **Finance** – Receives repayment of costs incurred by the city pursuant to enforcement, fines for noncompliance and assessments for costs incurred by the city in abatement.
- **Public Works** – Undertakes abatement in behalf of the city to maintain and secure vacant buildings.

**CITY OF FOREST PARK
STATE OF GEORGIA**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 2, BUILDING REGULATION AND CODE ENFORCEMENT, OF TITLE 8, PLANNING AND DEVELOPMENT, OF THE CODE OF ORDINANCES BY ENACTING ARTICLE Q, FORECLOSED AND VACANT PROPERTY REGISTRY; TO REPEAL ANY CONFLICTING ORDINANCES; TO PROVIDE AN ADOPTION DATE; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, in the interest of public safety, the City of Forest Park, Georgia ("City") finds that there is a need to establish a foreclosure and vacant real property ordinance as a mechanism to protect property values in neighborhoods for all property owners; and

WHEREAS, due to the lack of adequate maintenance and security of properties that are abandoned, vacant or foreclosed or where ownership has been transferred after foreclosure, the property values and quality of life of neighboring properties are negatively impacted; and

WHEREAS, improperly maintained and secured abandoned, vacant or foreclosed properties can become a hazard to the health and safety of persons who may come on or near the property and can adversely affect the aesthetic and economic attributes of communities; and difficulties also often arise in locating the person responsible for the condition of abandoned, vacant or foreclosed real property; and

WHEREAS, this foreclosure and vacant real property registry will require owners and agents to provide the City with official information for contacting a party responsible for bringing foreclosed and vacant real property into compliance with applicable provisions of the City Code and require necessary maintenance and security of such properties; and

WHEREAS, the City finds that there is a substantial need directly related to the public health, safety and welfare of its citizens to comprehensively address these concerns through the adoption of the provisions in this article.

NOW THEREFORE, be it ordained by the Governing Body of the City of Forest Park, Georgia:

Section 1. That Chapter 2, Title 8 of the Code of Ordinances, City of Forest Park, Georgia is hereby amended by inserting the following text:

“ARTICLE Q. – FORECLOSED AND VACANT PROPERTY REGISTRY.

Sec. 8-2-163. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Agent* means an individual with a place of business in this state in which he or she is authorized to accept inquiries, notices, and service of process on behalf of a vacant or foreclosed real property owner. The definition of “Agent” shall have the same meaning as set forth in O.C.G.A. § 44-14-14 should that definition differ from the definition in this subsection.
- (2) *Beneficiary* means a lender or other entity under a note secured by a deed of trust.
- (3) *Department* means the Department of Planning, Building and Zoning of the City of Forest Park.
- (4) *Director* means the Director of the Department of Planning, Building and Zoning of the City of Forest Park.
- (5) *Foreclosed Real Property* means improved or unimproved real property for which a land disturbance permit has been issued by the City of Forest Park and is held pursuant to a judicial or non-judicial foreclosure of a mortgage, deed of trust, security deed, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor. The definition of “Foreclosed Real Property” shall have the same meaning as set forth in O.C.G.A. § 44-14-14, should that definition differ from the definition in this subsection.
- (6) *Responsible Party* means the beneficiary that is pursuing foreclosure of a property subject to this chapter secured by a mortgage, deed of trust or similar instrument or a property that has been acquired by the beneficial interest at trustee’s sale.
- (7) *Street Address* means the street or route address. Such term shall not mean or include a post office box. The definition of “Street Address” shall have the same meaning as set forth in O.C.G.A. § 44-14-14 should that definition differ from the definition in this subsection.
- (8) *Unoccupied* means a building which is not being used for a legal occupancy.
- (9) *Unsecured* means a building or portion of a building that is open to entry by unauthorized persons without the use of tools.

(10) *Vacant Real Property* means real property that has one or more of the following conditions:

- (a) Is intended for habitation, has not been lawfully inhabited for at least 60 days, and/or has no evidence of utility usage within the past 60 days; or
- (b) Is partially constructed or incomplete, without a valid building permit.

Such term shall not include a building or structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage. The definition of "Vacant Real Property" shall have the same meaning as set forth in the O.C.G.A. § 44-14-14 should that definition differ from the definition in this subsection.

Sec. 8-2-164. – Registration of Foreclosed or Vacant Property.

- (a) Owners or Agents of Foreclosed Real Property, that is not exempt from registration under Section 8-2-165, are required to register such property with the Department between 90 and 120 days after the property's transfer pursuant to a deed under power of sale or a deed in lieu of foreclosure. In no event shall owners or Agents of Vacant Real Property be required to register such property within 90 days of such property's transfer pursuant to a deed under power of sale or a deed in lieu of foreclosures.
- (b) Owners or Agents of Vacant Real Property are required to register such property with the Department between 90 and 120 days after such property's transfer to the first subsequent transferee after such property has been acquired by foreclosure under power of sale or a deed in lieu of foreclosure or, if applicable, within 30 days of the notice by the Director of his or her belief such property is vacant. In no event shall owners or Agents of Vacant Real Property be required to register such property within 90 days of the real property's transfer to the first subsequent transferee after the Vacant Real Property has been acquired by foreclosure under a power of sale or deed in lieu of foreclosure.
- (c) Registration shall be accomplished by registering with the clerk of the Department on the "Foreclosed or Vacant Property Registration Form" promulgated by the Georgia Department of Community Affairs. Such forms will be available for completion from the Department's clerk and will require the provision of the following information:
 - (1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (2) The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (3) The real property's street address, tax parcel number, district/ward/zoning;
 - (4) The transfer date of the instrument conveying the real property to the owner; and
 - (5) At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.
- (d) The City may register an unoccupied building as a vacant building when the City takes ordinance enforcement action or action to abate an ordinance violation against the unoccupied building or the grounds upon which it is located. In such case, the City shall complete all forms required by this section.
- (e) Owners or agents of Foreclosed Real Property that is not exempt from registration under Section 8-2-165 or Vacant Real Property shall be required to pay a one-time registration fee in an amount to

be set by the City via resolution for each registered property, as identified by its tax parcel number. However, if the City registers a vacant property as provided in subsection (b) above, the City may assess all registration costs against such property.

Sec. 8-2-165. – Exemption from registration.

- (a) Registration of Foreclosed Real Property and payment of a registration fee pursuant to this article is not required of any transferee who acquires any real property by foreclosure under power of sale pursuant to the O.C.G.A. § 44-14-160 or acquires any real property pursuant to a deed in lieu of foreclosure if:
 - (1) The deed under power of sale or deed in lieu of foreclosure contains the information specified in subsection (c)(1)-(5) of Section 8-2-164;
 - (2) The deed is filed with the clerk of the Superior Court of Clayton County within 60 days of the transfer; and
 - (3) Proof of the following is provided to the Department:
 - (a) A filing date stamp or receipt showing payment of the applicable filing fees; and
 - (b) The entire deed under power of sale or entire deed in lieu of foreclosure.
- (b) Registration is also not required for:
 - (1) A building or structure containing multiple units with common ownership that has at least one unit occupied with evidence of utility usage; or
 - (2) Property under active construction, rehabilitation, renovation or repair that has valid building permits.

Sec. 8-2-166. – Maintenance requirements.

- (a) Doors, windows, areaways, and other openings are weather-tight and secured against entry by birds, vermin, and trespassers, and missing or broken doors, windows, and other openings are secure;
- (b) The roof shall be adequately supported and maintained in weather-tight condition; the gutters, downspouts, scuppers and appropriate flashing are sound and tight, in good repair and adequate to remove the water from the building and will not admit moisture;
- (c) The building storm drainage system is adequately sized and installed;
- (d) The interior and exterior is maintained in good repair, structurally sound, sanitary and free from accumulation of debris, rubbish, garbage, boxes, lumber scrap metal or any other materials that may produce any health, fire or safety hazard or provide harborage for rodents or other animals;
- (e) Every floor, wall, stair, ceiling or other interior structural support shall be safe, free of deterioration and capable of supporting loads associated with normal usage and shall be kept in sound condition and repair;
- (f) Any plumbing fixtures shall be maintained with no leaking pipes, and all pipes for water shall either be completely drained or heated to resist being frozen;
- (g) The foundation, basement, cellar and crawlspace walls are plumb, free from open cracks and breaks, shall be maintained in sound and watertight condition adequate to support the building and protected against the entry of rodents or other animals;
- (h) The exterior walls are free of holes, breaks, and loose or rotting materials, and any other conditions which might admit rain or dampness to the interior portions of the walls or the interior spaces and any exposed metal and wood surfaces are protected against the entry of rodents or other animals;

- (i) The cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features are safe, anchored, and in good repair;
- (j) All balconies, porches, stoops, decks, verandas, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts, and similar features are in good repair;
- (k) Chimneys and flues, cooling towers, smokestacks, and similar appurtenances are structurally safe, sound, functional, weather-tight and in good repair;
- (l) Openings in sidewalks are safe for pedestrian travel;
- (m) Accessory and appurtenant structures such as garages, sheds, and fences are free from safety, health, and fire hazards;
- (n) The property on which a structure is located is clean, safe, and sanitary and does not threaten the public health or safety;
- (o) The exterior of the property shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation (any dead or broken trees, tree limbs or shrubbery shall be cut and removed from the premises), trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned;
- (p) The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure;
- (q) Insofar as there is existing or previously existing landscaping, all visible front and side yards shall be maintained to the neighborhood standard at the time registration was required. If no landscaping previously existed at the property in front and visible side yards, installation is not required under this chapter. Landscape includes, but is not limited to, grass, turf stain, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch (unless applied in conjunction with reseeded of turf areas), indoor-outdoor carpet or any similar material;
- (r) Maintenance includes but is not limited to regular watering, irrigation, staining, re-staining, cutting, pruning and mowing of required landscape and removal of all trimmings; and
- (s) Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of Georgia.
- (t) Adherence to this section does not relieve the beneficiary/responsible party of any obligations set forth in any covenants, conditions and restrictions and/or homeowners' association rules and regulations which may apply to the property.

Sec. 8-2-167. – Security requirements.

- (a) All points of possible ingress and egress on property subject to this section shall be secured to prevent unauthorized entry and maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other openings of such size that leave it accessible. Locking includes measures that require a key, keycard, tool or special knowledge to open or gain access. In the case of broken windows, securing means the re-glazing or boarding of the window. However, in the case of broken windows,

boarding of such broken windows shall not exceed a period of 30 calendar days, unless the property owner is under investigation with the Office of the State Fire Marshal or any other state or federal public safety-related governmental agency. The roof shall be adequately supported and maintained in weather-tight condition; the gutters, downspouts, scuppers and appropriate flashing are sound and tight, in good repair and adequate to remove the water from the building and will not admit moisture;

- (b) The owner, responsible party/beneficiary or their designee shall perform monthly inspections to verify that the requirements of this chapter are being met.
- (c) If the owner or responsible party/beneficiary does not have a property preservation or real estate owned section/department, a field service provider, property manager or their designee shall be contracted to perform the inspection to determine if the property is in compliance and to verify that the requirements of this section, and any other applicable laws, are being met.

Sec. 8-2-168. – Additional authority.

In addition to the enforcement remedies established in other sections of this code, the Director or his or her designee shall have the authority to require the responsible party/beneficiary of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all doors, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

Sec. 8-2-169. – Updates to Registration.

Any owner or agent required to register any vacant or foreclosed real property pursuant to this Article or to Georgia law shall also be required to update the information specified in subsection (c)(1)-(5) of Section 8-2-164 within 30 days after any change in such required information regardless of whether the information provided to the registry was in the deed under power of sale or deed in lieu of foreclosure.

Sec. 8-2-170. – Removal from Registry.

- (a) Any owner or agent of a vacant or foreclosed real property may apply to the City to remove a vacant or foreclosed real property from the City registry at such time as the real property no longer constitutes a vacant or foreclosed real property.
- (b) Any application for removal allowed under subsection (a) of this section shall be granted or denied by the director within 30 days, and if no such determination is made within 30 days then the application for removal from the registry shall be deemed granted.

Sec. 8-2-171. – Appeal Procedures.

- (a) Any owner or agent aggrieved of any determination or decision of director in the administration of this Article may appeal to the Environmental Court of the City. All appeals hereunder must be taken within 30 days of the decision in question by filing with the director a written notice of appeal specifying the grounds thereof. Appeals must be postmarked by the 30th day after the date of the director's decision to be timely.
- (b) The Director shall transmit the notice of appeal and all the papers constituting the record upon which the action appealed was taken to the environmental court clerk who shall schedule an appeal

hearing within 60 days following the date of receipt of the written appeal by the director.

- (c) The environmental court judge may call for further information to be provided within the next 30 days following the hearing, and may continue the hearing for the purpose of receiving such information or for such other proceedings and reasons as the environmental court judge deems appropriate.
- (d) An appeal shall stay all proceedings in furtherance of the action appealed from unless the director certifies to the environmental court, after the notice of appeal has been filed, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by order of the environmental court judge on notice to the Director, and upon due cause shown.
- (e) The environmental court judge may, in conformity with the provisions of this article, reverse or affirm, in whole or in part, or modify the decision, requirement, or determination of the director and may make such decision, requirement, or determination, as may be appropriate under the circumstances.
- (f) Any appeals of the decisions of the environmental court judge shall be taken to the Superior Court of Clayton County by writ of certiorari.

Sec. 8-2-172. – Administration.

- (a) The foreclosed and vacant real property registry is subject to the Open Records Act of the State of Georgia and the City may make such registry information available online.
- (b) Registration information shall be deemed prima facie proof of the statements contained therein in any court proceeding or administrative enforcement proceeding in connection with the enforcement of this article.
- (c) The Director may develop guidelines and forms, make recommendations and take such other steps as may be necessary to enforce the provisions of this article.

Sec. 8-2-173. – Nuisances.

Nothing in this Article shall be construed to impair, limit, or preempt in any way the power of the City to enforce any applicable codes, as defined in state law, or to define or declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. Such nuisances may include, but not be limited to dangerous or diseased trees, graffiti, illegal dumping, inoperable exterior lighting, junk cars or any walls and buildings that may endanger persons or property.

Sec. 8-2-174. – City Action.

The City may take the following actions in relation to a vacant building. The building owner shall reimburse the City for all costs incurred by the City pursuant to this chapter.

- (a) The City may inspect the premises of the vacant building each month.
- (b) The City may take any other action required to secure the building. Any additional costs shall be charged to the owner of the property.
- (c) The City may mow the lawn, landscape or grounds of any vacant building as needed if the plant growth violates City ordinances and the owner fails to timely cut the lawn. The owner shall pay the City for mowing the lawn at the City's standard billing rate.

- (d) The City may remove garbage, debris, objects or other materials from a vacant property, and take any other actions authorized by law to remedy an ordinance violation.
- (e) The City may conduct site inspections of the property upon which the vacant building is located as needed to ensure that the building is secure, the grounds are maintained and compliance with the terms of this chapter is achieved.

Sec. 8-2-175. – Certification of Unpaid Service Charges.

In the event the building owner fails to reimburse the City within 30 days of mailing of a bill by the City for costs incurred by the City pursuant to enforcement of this chapter against a vacant property, the City may certify such unpaid charges to the Clayton County auditor for collection with the next year's property taxes after 10 days' mailed notice to the property owner sent via first class U.S. mail to the owner's address as listed on the tax records at the Clayton County recorder's office.

Sec. 8-2-176. – Violations and Penalties.

- (a) It shall be a violation of this article to:
 - (1) fail to register in accordance with applicable provisions of this article;
 - (2) fail to update a change in registry information;
 - (3) fail to maintain and secure properties subject to this section; or
 - (4) provide inaccurate or false information.
- (b) Any owner or agent required but fails to register or update a change in registry information, maintain and secure property as required by this article or provide inaccurate or false information, upon citation or summons by an authorized City employee, and judgment or conviction of the violation in a court of competent jurisdiction, which includes the City environmental court, shall be subject to penalties not to exceed one thousand dollars (\$1,000) per occurrence or for each month the violation remains."

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the

Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ **day of** _____, 2015.

CITY OF FOREST PARK, GEORGIA

David Lockhart, Mayor

Tommy Smith
Councilmember, Ward One

Dabouze Antoine
Councilmember, Ward Two

Maudie McCord
Councilmember, Ward Three

Latresa Akins, Mayor Pro-tem
Councilmember, Ward Four

Linda Lord
Councilmember, Ward Five

ATTEST:

City Clerk

THE SEAL OF THE CITY OF
FOREST PARK, GEORGIA

Approved as to form:

City Attorney

CITY OF FOREST PARK, GEORGIA

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF FOREST PARK FINDING
COMCAST IN DEFAULT OF CABLE TELEVISION FRANCHISE
AGREEMENT FOR FAILURE TO REMIT FRANCHISE FEES IN
ACCORDANCE WITH CABLE TELEVISION FRANCHISE
AGREEMENT**

RECITALS:

1. On or about January 20, 1992, the City of Forest Park, Georgia ("City") entered into a Cable Television Franchise Agreement ("Franchise") with Wometco Cable TV ("Grantee").
2. The Franchise is currently held by Comcast of Georgia/Virginia, Inc. ("Grantee").
3. The Franchise term expired May 20, 2004.
4. Section 3 of the Franchise requires Grantee to pay the City a five percent (5%) franchise fee during the term of the Franchise on an annual basis, said franchise fee to be calculated based on gross subscribers revenue received by Grantee for cable service within the City.
5. Since the effective date of the Franchise Grantee has annually remitted franchise fees to the City.
6. Grantee was notified in writing by the City in a letter dated March 31, 2015 the City had contracted with Local Government Services, LLC ("LGS") to assist the City in performing a compliance review of franchise fee payments received by the City.
7. LGS and Comcast agreed that Comcast underpaid the City \$24,581.31 in outstanding franchise fees in an email dated May 6, 2015. Comcast did not include the franchise fee in the calculation of gross subscriber revenues (see Exhibit A attached hereto and made part of this Resolution).
8. Comcast provided LGS a form dated August 28, 1998 that a previous Mayor signed which indicated the City did not want to include the franchise fee in the calculation of gross revenues in the Franchise
9. LGS informed Comcast that it is not possible for either party to unilaterally amend the Franchise and the City Charter does not allow the Mayor to have unilateral authority to amend an ordinance in an email dated May 11, 2015 (see Exhibit B attached hereto and made part of this Resolution).
10. The City Attorney submitted two letters dated July 2, 2015 and August 20, 2015 to Comcast in an attempt to resolve the issue of disputed franchise fees and to discuss the expired Franchise (see Exhibit C attached hereto and made part of this Resolution).
11. As of the date of this Resolution the City has received no written reply from Grantee regarding request for payment and Grantee has not remedied the franchise violation by remitting the past due franchise fees.

NOW, THEREFORE, the City of Forest Park, Georgia hereby resolves as follows:

1. The Franchise is in full force and effect, and Grantee is the lawful holder of the Franchise.
2. The recitals set forth above are hereby incorporated in their entirety.
3. Grantee is in violation of Section 3 of the Franchise for failure to include the franchise fee in the calculation of gross subscriber revenue for the review period of January 1, 2011 through December 31, 2014 ("Review Period").
4. The total amount of franchise fee underpayment for the review period is found to be \$24,581.31.
5. City hereby reserves any and all rights it may have under the Franchise and applicable law to seek monetary damages, penalties and/or any other equitable remedy against Grantee for said violation.
6. City staff is hereby authorized to bring an action against Grantee in a court of competent jurisdiction to recover any franchise fee underpayment to the City for the Review Period.

This Resolution shall take effect and continue and remain in effect from and after the date of its passage, approval, and adoption.

Passed and adopted by the City of Forest Park, Georgia this ____ day of September 2015.

DAVID N. LOCKHART, MAYOR

TOMMY SMITH,
COUNCILMEMBER (WARD ONE)

DABOUZE ANTOINE
COUNCILMEMBER (WARD TWO)

MAUDIE MCCORD
COUNCILMEMBER (WARD THREE)

LATRESA AKINS, MAYOR PRO-TEM
COUNCILMEMBER (WARD FOUR)

LINDA LORD,
COUNCILMEMBER (WARD FIVE)

ATTEST:

CITY CLERK

(THE SEAL OF THE CITY OF
FOREST PARK, GEORGIA)

Approved as to Form:

City Attorney