

CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING AGENDA

November 7, 2018

9:00am.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. CALL TO ORDER:** Mayor Jason Lary
- II. ROLL CALL:** Brenda James, Interim City Clerk
- III. INVOCATION:**
- IV. PLEDGE OF ALLEGIANCE:**
- V. ADOPTION OF THE CITY COUNCIL AGENDA:**
- VI. MINUTES:** Approval of Minutes of the City Council Meeting of October 15, 2018
- VII. PRESENTATIONS:**
- VIII. PUBLIC COMMENTS:**
- IX. AGENDA ITEMS:**
 - 1. Amended and Restated Resolution Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee and Appointing the Initial Members
 - 2. An Ordinance to Amend the Charter, Section 1.03 (b) (37) (A) to Amend the Millage Rate Cap- **Second Read**
 - 3. An Ordinance to Amend Section 2.13 (e) of the Charter Eliminating the Restrictions of Employment – **Second Read**
 - 4. An Ordinance to Amend the Charter, Section 3.11 to Change the name of the City Accountant to City Finance Director – **Second Read**

5. An Ordinance to Amend the Charter, Sections 4.02, 4.03 and 4.06 of Article IV amending the Titles of any Municipal Judge- **Second Read**
6. An Ordinance for the Creation of the Stonecrest Youth Council - **Second Read**
7. An Ordinance to Provide for the Creation of the Stonecrest Youth Council Advisory Committee – **Second Read**
8. An Ordinance Creating the Historic and Cultural Landmarks Commission – **Second Read**
9. Resolution of the City of Stonecrest finding AT&T to be in Violation of State Law by not paying the City a Franchise Fees on Telecommunication Services
10. Resolution of the City of Stonecrest finding AT&T to be in Violation of State Law by not paying the City a Franchise Fees on Video Services

X. CITY MANAGER COMMENTS:

XI. CITY ATTORNEY COMMENTS:

XII. MAYOR AND COUNCIL COMMENTS:

XIII. ADJOURNMENT:

XIV. EXECUTIVE SESSION:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE

CITY OF STONECREST, GEORGIA

Honorable Mayor Jason Lary, Sr.

Council Member Jimmy Clanton, Jr. – District 1

Council Member Rob Turner- District 2

Council Member Jazzmin Cobble – District 3

Council Member George Turner- District 4

Council Member Diane Adoma – District 5

CITY COUNCIL MEETING MINUTES

October 15, 2018

7:00pm.

3120 Stonecrest Blvd. Suite 190

Stonecrest, Georgia

- I. **CALL TO ORDER:** Mayor Jason Lary
- II. **ROLL CALL:** All Member were present
- III. **INVOCATION:** Council Member Rob Turner
- IV. **PLEDGE OF ALLEGIANCE:**
- V. **ADOPTION OF THE CITY COUNCIL AGENDA:**

Council Member Adoma made a motion to add a presentation of Africa UMOJO to the agenda and adopt the agenda with Council Member George Turner providing the second. **The motion carried unanimously.**

The cast of Africa UMOJO The Spirit of Unity Tour 2018 performed at the meeting. This is an international show and they will be performing at the Porter Sanford Center in DeKalb County.

- VI. **MINUTES:** Approval of Minutes of the City Council Meeting of October 3, 2018

Council Member George Turner made a motion to approve the minutes of October 3, 2018 with Council Member Adoma providing the second. **The motion carried unanimously.**

- VII. **PUBLIC HEARING:**

- 1. AX 18-0001 6024 Covington Hwy

Nicole Dozier, Community Development Director gave an overview of the annexation request. She explained when the annexation originally started is was for one lot and now DeKalb County has made it two lots. So, we will need to annex the property and do a rezoning for both parcels.

Council Member Rob Turner made a motion to open the public hearing for AX18-0001 with Council Member Adoma providing the second. **The motion carried unanimously.**

Spoke in Favor

Attorney Roxanne Martin – Battle Law Group
Jan Costello

Spoke Against

Attorney Bernie Knight

Council Member Adoma made a motion to close the public hearing with Council Member George Turner providing the second. **The motion carried unanimously.**

Council Member Rob Turner made a motion to approve the annexation of AX-18-0001 with Council Member Adoma providing the second. **The motion carried unanimously.**

Council Member Rob Turner made a motion to approve the rezoning as requested by the applicant for parcel number 1603904034 and 1603904063 with the 24 conditions. Council Member Adoma provided the second. **The motion carried unanimously.**

2. RZ 18-003- 6554 & 6560 Chupp Road / 7247 & 7257 Covington Hwy/ 2601 & 2616 Macedonia

Nicole Dozier, Director of Community Development gave an overview of RZ 18-003. She said staff is recommending at least a one car garage is included.

Council Member Clanton made a motion to open the public hearing with Council Member Rob Turner providing the second. **The motion carried unanimously.**

Spoke in Favor

Attorney Rozanne Martin of Battle Law Group
Christopher Byrd
Attorney Bernard Knight

Spoke Against

Faye Coffield

Dave Marcus

Rebuttal

Chris Byrd – Gateway Management

Council Member Clanton made a motion to close the public hearing with Council Member Adoma providing the second. **The motion carried unanimously.**

Nicole Dozier said staff recommends accepting the 21 conditions by the applicant, but that there be no liquor stores, pool halls, gas stations, check cashing locations and nail salons allowed on this property. She said most of them are included in the overlay district, however three are not.

After much discussion, Council Member Clanton made a motion to approve the rezoning 18-003, 6554 & 6550 Chupp Road, 7247 & 7257 Covington Highway and 2601 & 2616 Macedonia with the 21 conditions requested by the applicant and the 3 conditions of no pool halls, nail salons and check cashing places requested by staff which are not prohibited by the current Overlay District. Council Member George Turner provided the second. **A vote was taken on the motion to approve with Council Members Rob Turner, George Turner, Clanton, Cobble, and Mayor Lary voting yes. Council Member Adoma voted no. The motion passed.**

VIII. PUBLIC COMMENTS:

1. Faye Coffield spoke on great apartments in Stonecrest and the African UMOJO group performance.
2. Bernard Knight spoke on agenda item #8, Ordinance Designating Chapter 16 – Miscellaneous Provisions and Offenses.

IX. AGENDA ITEMS:

3. Authorize Execution of Intergovernmental Agreement with DeKalb County for Elections

Mayor Lary made a motion to authorize the execution of the Intergovernmental Agreement with DeKalb County for Elections with Council Member George Turner providing the second. **The motion carried unanimously.**

4. Authorize Correction of Term End Date of Intergovernmental Agreement for Fire Rescue Services between DeKalb County and City of Stonecrest

Mayor Lary made a motion to authorize the Correction of the Term End Date of the Intergovernmental Agreement with DeKalb County for Fire Services. Council Member Rob Turner provided the second. **The motion carried unanimously.**

5. An Ordinance Adopting Chapter 19 (Parks and Recreation)

Mayor Lary made a motion to approve the Ordinance Adopting Chapter 19 as Parks and Recreation. Council Member Adoma provided the second. **The motion carried unanimously.**

6. An Ordinance Adopting Chapter 11 (Emergency Management Services)

Council Member George Turner made a motion to approve the Ordinance Adopting Chapter 11 for Emergency Management Services with Council Member Clanton providing the second. **The motion carried unanimously**

7. An Ordinance to amend the Budget for the Fiscal Year 2018

Mayor Lary made a motion to approve the Ordinance to amend the Budget for the Fiscal Year 2018 with Council Member Clanton providing the second. **The motion carried unanimously.**

8. An Ordinance Designating Chapter 16- Miscellaneous Provisions and Offenses

Emily M. Preston gave an overview of the Miscellaneous Provisions and Offenses. After much discussion, Mayor Lary made a motion to approve the ordinance designating Chapter 16 – Miscellaneous Provisions and Offenses. Council Member Clanton provided the second. **The motion carried unanimously.**

9. Resolution Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee

Mayor Lary read the names of the members of the SPLOST Citizen Oversight Advisory Committee and many of them were present. There are: Eric Carrington, Erika Dixon, Phyllis Douglas, Michelle Emanuel, Lemuel Hawkins, Shawn Jones, Dave Marcus, Derrel Taylor, Swain Watters, Kerry Williams and Plez A. Joyner.

Mayor Lary made a motion to approve the Resolution authorizing the establishment of the SPLOST Citizen Oversight Advisory Committee with the names read. Council Member Clanton provided the second. Council Member Adoma voted no with all other members voting yes. **The motion passed.**

10. An Ordinance for the Creation of the Stonecrest Youth Council

First Read Only

11. An Ordinance to Provide for the Creation of the Stonecrest Youth Council Advisory Committee

First Read Only

12. An Ordinance Creating the Historic and Cultural Landmarks Commission

First Read Only

13. An Ordinance to Amend the Charter, Section 1.03(b)(37)(A) to Amend the Millage Rate Cap

First Read Only

14. An Ordinance to Amend Section 2.13(e) of the Charter Eliminating the Restrictions of Employment

First Read Only

15. An Ordinance to Amend the Charter, Section 3.11 to Change the name of the City Accountant to City Finance Director

First Read Only

16. An Ordinance to Amend the Charter, Sections 4.02, 4.03 and 4.06 of Article IV Amending the Titles of any Municipal Judge

First Read Only

X. CITY MANAGER COMMENTS: None

XI. CITY ATTORNEY COMMENTS: None

XII. MAYOR AND COUNCIL COMMENTS:

Council Member Adoma announced a Townhall Meeting on October 23, 2018 where Jeff Radar, Presiding Officer for DeKalb County and Jackie Nichols, President of the South River Watershed will be present; on October 27, 2018 a walk at Arabia Mountain to raise money for foster children and on November 3, 2018 the Kids Health Festival.

Council Member George Turner announced there will be a 5K Walk at Arabia Mountain on October 27, 2018 at 9:00am to bring attention to Hypertension.

Council Member Rob Turner announced a Townhall Meeting on Tuesday October 23, 2018 at 7:30p.m.

Council Member Cobble announced she will be participating in the Dancing with the DeKalb Stars on October 20, 2018 to raise funds for Domestic Violence.

The City Clerk, Brenda James reminded everyone that early voting started today.

Mayor Lary thanked the Marbut Road Theme School for the Breast Cancer Walk and said he learned many men had breast cancer.

XIII. ADJOURNMENT:

Council Member Cobble made a motion to adjourn at 10:00 p.m. with Council Member Rob Turner providing the second. **The motion carried unanimously.**

XIV. EXECUTIVE SESSION:

WHEN AN EXECUTIVE SESSION IS REQUIRED, ONE WILL BE CALLED FOR THE FOLLOWING ISSUES: 1) PERSONNEL, 2) LITIGATION, 3) REAL ESTATE



CITY COUNCIL AGENDA ITEM

SUBJECT: Amended and Restated Resolution Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest and Appointing the Initial Members

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☒ **RESOLUTION** ☐ **OTHER**

Date Submitted: 10/31/2018

Council Meeting: 11/07/2018

SUBMITTED BY: Mayor Lary

PURPOSE: This Resolution is the amend and restate the previous Resolution to establish a citizen oversight advisory committee for SPLOST in the City of Stonecrest and to appoint the initial members.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AMENDED AND RESTATED RESOLUTION AUTHORIZING THE
ESTABLISHMENT OF THE SPLOST CITIZENS OVERSIGHT ADVISORY
COMMITTEE OF THE CITY OF STONECREST, GEORGIA AND APPOINTING THE
INITIAL MEMBERS**

WHEREAS, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum;

WHEREAS, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

WHEREAS, Section 1.03(b)(42) of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants;

WHEREAS, Section 2-137 of Chapter 2 of the Code of the City of Stonecrest, Georgia, provides that the Mayor may establish advisory committees;

WHEREAS, the citizens of DeKalb County voted on November 7, 2017, to impose a Special Purpose Local Option Sales Tax (SPLOST) to be spent on capital improvements for the use and benefit of DeKalb County and qualified municipalities within the DeKalb County;

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that it is in the best interest of the City and its citizens to establish an advisory committee known as the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest, Georgia, for the purpose of providing transparency and accountability to the citizens of the City of Stonecrest concerning the use of SPLOST funds;

WHEREAS, the Mayor and City Council passed Resolution 2018-_____ on October 15, 2018 Authorizing the Establishment of the SPLOST Citizens Oversight Advisory Committee and appointing the initial members of the Committee;

WHEREAS, the Mayor and Council desire to amend the list of initial members of the SPLOST Citizens Oversight Committee as contained herein.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Stonecrest, Georgia, as follows:

SECTION I.
ESTABLISHMENT OF THE CITIZENS SPLOST OVERSIGHT ADVISORY
COMMITTEE AND AUTHORIZATION

1. The Mayor and City Council of the City of Stonecrest affirm that the Special Purpose Local Option Sales Tax is the City's opportunity to affect substantive improvements that connect our citizens and starts to transform our City into one defined by the collective pursuit of a high quality of life for all residence. To further help accomplish this vision, there is hereby established the SPLOST Citizens Oversight Advisory Committee of the City of Stonecrest, Georgia (hereinafter referred to as the "SPLOST Committee").

SECTION II.
MISSION AND DUTIES

1. The mission of the SPLOST Committee is to provide transparency and accountability to the citizens of the City of Stonecrest from the 2018 SPLOST.
2. The purpose of the SPLOST Committee is to ensure:
 - a. That revenue collected under the SPLOST is spent in accordance with SPLOST law;
 - b. That funds from the SPLOST are well managed and used efficiently;
 - c. That projects funded by the Stonecrest portion of the SPLOST are equitable, appropriately prioritized, and well distributed throughout the City;
 - d. To provide as necessary and appropriate advice, reviews, reports and recommendations to the public, City Manager, Mayor and City Council on SPLOST spending, budgets, projects and legislation.
3. Members must attend two-thirds (2/3) of the SPLOST Committee meetings in a calendar year. Failure to do so warrants removal from the SPLOST Committee.

SECTION III.
MEMBERSHIP

1. The SPLOST Committee shall be composed of twelve (12) members, one (1) of whom shall be the City Manager or his designee. The City Manager or his designee shall oversee the meetings and shall be an ex-officio, non-voting member of the SPLOST Committee.
2. Except as provided in subsection (3) of this Section III, the Mayor shall establish qualifications for members of the SPLOST Committee. Each committeeperson shall be nominated by the Mayor and approved by the City Council.
3. Each SPLOST Committee member must be either a resident of the City or an owner or officer of a business domiciled in the City. Should the committee member move out of

the City or no longer be an owner or an officer of a business domiciled in the City, he/she may remain active until the Mayor and City Council appoint his/her replacement.

**SECTION IV.
TERMS**

1. Each member shall serve for a term of four (4) years.
2. Members filling vacancies shall serve the remainder of the term to which they were appointed. A consecutive appointment is permissible. Members whose terms expire shall continue to serve until a replacement is appointed or a consecutive appointment is made.
3. Any member may be removed with or without cause by the Mayor.

**SECTION V.
COMPENSATION**

SPLOST Committee members may serve without compensation. Reasonable expenses for travel may be reimbursed and SPLOST Committee members may be compensated pursuant to a policy to be established by the City Manager and approved by the City Council.

**SECTION VI.
QUORUM**

A majority of the actual number of SPLOST Committee members establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum present.

**SECTION VII.
GOVERNANCE**

1. The SPLOST Committee shall adopt its rules of procedure, which shall be substantially similar to the rules of procedure of the City Council.
2. The SPLOST Committee shall set its own meeting schedule and establish the meeting agendas.
3. The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of the Mayor and City Council.
4. All meetings shall be open to the public and all records maintained by the SPLOST Committee shall be public records unless expressly exempted by a provision of the State's Open Records Act.
5. At each meeting, the public shall be granted time for public comment.

- 129 6. The SPLOST Committee shall elect a chairman to conduct meetings and a vice chairman
130 to conduct meetings in the absence of the chairman. Elections shall be held at the first
131 regular meeting of the calendar year. The chairman shall serve for one (1) year or until
132 re-elected or a successor is elected. The vice chairman shall serve for one (1) year or until
133 re-elected or a successor is elected. The SPLOST Committee shall select one of its
134 members to be the secretary.
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- 136 7. The SPLOST Committee shall keep minutes of its proceedings, showing the vote of each
137 member upon each question, and records of its examinations and other official actions, all
138 of which shall be filed in the office of the City Clerk. Copies of the minutes shall be sent
139 to the Mayor and each member of the City Council.
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- 141 8. The SPLOST Committee will report either in person or in writing to the Mayor and City
142 Council at the first regular City Council meeting every other month, commencing with
143 the first regular City Council meeting in January, 2019.
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145 **SECTION VIII.**
146 **INITIAL MEMBERS**
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148 The initial members of the SPLOST Committee shall be as follows:

- 149 1. Eric Carrington (District 2)
150 2. Erika Dixon (District 2)
151 3. Phyllis Douglas (District 3)
152 4. Michelle Emanuel (District 4)
153 5. Suzanne Frick (District 5)
154 6. Lemuel Hawkins (District 5)
155 7. Shawn Jones (District 3)
156 8. Dave Marcus (District 5)
157 9. Darrel Taylor (District 1)
158 10. Swain Watters (District 4)
159 11. Kerry Williams (District 1)
160 12. Assistant City Manager Plez Joyner, *ex officio and non-voting member*.
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163 This Resolution shall be effective immediately upon its adoption.
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165 **SO RESOLVED AND EFFECTIVE** this the ____ day of _____, 2018.
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167 Approved:
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Jason Lary, Sr., Mayor

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

RESOLUTION 2018-_____

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175 Attest:

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179 Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Section 1.03 (b) (37) (A) to Amend the Mileage Rate Cap

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Council Meeting 08/15/2018

Council Meeting 11/07/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter Section 1.03 (b) (37) (A) to amend the millage rate.

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the second read and is up for adoption. 2018.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF AMENDING THE MILLAGE RATE CAP
IMPOSED BY SECTION 1.03(b)(37)(A) OF ARTICLE I OF THE CITY CHARTER**

WHEREAS, Section 1.03(b)(37)(A) of 2.07 of Article I of the Charter of the City of Stonecrest, Georgia (the "City Charter") provides that the millage rate imposed for ad valorem taxes on real property shall not exceed 3.35; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire that the 3.35 millage rate limitation for ad valorem taxes on real property be modified to provide that the limitation shall be increased from 3.35 by the amount of any roll back or reduction of the millage rate for ad valorem taxes imposed by DeKalb County, Georgia for governmental services formerly provided by it to the residents and property owners of the City of Stonecrest which governmental services are to be or will be provided by the city; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

41 **WHEREAS**, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a
42 newspaper of general circulation in the municipal corporation once a week for
43 three (3) weeks prior to its final adoption, and a copy of the proposed amendment
44 has been placed on file in the Office of the Clerk of the City of Stonecrest and in
45 the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required
46 by Georgia law; and

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48 **WHEREAS**, the required notice will have been published within the statutory period of sixty
49 (60) days immediately preceding the final adoption of this Ordinance amending
50 the City Charter; and

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52 **WHEREAS**, the title of this Ordinance shall have been read and this Ordinance duly adopted at
53 two consecutive City Council meetings not less than seven (7) nor more than sixty
54 (60) days apart as required by Georgia law.
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56 **THEREFORE**, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as
57 follows:

58 **Section 1:** That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:
59 Section 1.03(b)(37)(A) of Article I of the City Charter is restated and amended to read as
60 follows:

61 (37) Taxes; ad valorem. To levy and provide for the assessment, valuation, revaluation, and
62 collection of taxes on all property subject to taxation; provided, however, that:

63 (A) The millage rate imposed for ad valorem taxes on real property shall not exceed 3.35
64 plus the amount of any roll back or reduction by DeKalb County of its millage rate
65 imposed for ad valorem taxes on real property within corporate limits of the city for
66 services assumed by the city from DeKalb County unless either (i) the millage rate is
67 increased above such amount by a higher limit is recommended by resolution of the city
68 council without voter approval through the exercise of home rule powers, or (ii) approved
69 by a majority of the qualified electors of the City of Stonecrest voting on the issue,
70 provided that the amount of millage associated with general obligation bonds or the
71 creation of special tax districts pursuant to Article IX, Section II, Paragraph VI of the
72 Constitution of the State of Georgia shall not count as part of the 3.35 limit since such
73 millage is already subject to approval by the electors of the city in a separate referendum;"

74 **Section 2:**

- 75 1. It is hereby declared to be the intention of the Mayor and City Council that all sections,
76 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their
77 enactment, believed by the Mayor and City Council to be fully valid, enforceable and
78 constitutional.

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2. It is hereby declared to be the intention of the Mayor and City 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 City 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.
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3. 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 City 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 the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
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4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
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5. The within ordinance shall become effective upon its adoption.
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6. The provisions of this Ordinance shall become and be made part of the City Charter and shall be codified in accordance with state law.

ORDINANCE 2018-_____

Approved:

As to form:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Section 2.13(e) to Eliminate the Restriction of Employment by any City or County Government

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Council Meeting 08/15/2018

Council Meeting 11/07/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter Section 2.13 (e) to eliminate the restriction of employment by any City of County Government

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the second read and is up for adoption.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF ELIMINATING THE RESTRICTION OF
EMPLOYMENT BY ANY MEMBER OF THE CITY COUNCIL BY ANY CITY OR
COUNTY GOVERNMENT IN SECTION 2.13(e) OF THE CITY CHARTER**

WHEREAS, Section 2.13(e) of the Charter of the City of Stonecrest, Georgia (the "City Charter") prohibits any member of the City Council to be employed by any city or county government during the term for which elected; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire that this restriction on employment be removed unless prohibit by law; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

WHEREAS, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks prior to its final adoption, and a copy of the proposed amendment has been placed on file in the Office of the Clerk of the City of Stonecrest and in

the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required by Georgia law; and

WHEREAS, the required notice will have been published within the statutory period of sixty (60) days immediately preceding the final adoption of this Ordinance amending the City Charter; and

WHEREAS, the title of this Ordinance shall have been read and this Ordinance duly adopted at two consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart as required by Georgia law.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:

Section 2.13(e) of Article II of the City Charter is hereby amended as follows:

“SECTION 2.13
Prohibitions.

(e) Except as authorized by law, no member of the city council shall hold any other elective office or be employed by the City of Stonecrest during the term for which elected.”

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City 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 City 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.
3. 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 City 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 the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
5. The within ordinance shall become effective upon its adoption.
6. The provisions of this Ordinance shall become and be made part of the City Charter and shall be codified in accordance with state law.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-____-____

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SO ORDAINED AND EFFECTIVE this the ____ day of _____, 201__.

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Approved:

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Jason Lary, Sr., Mayor

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As to form:

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City Attorney

111 Attest:

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115 _____
Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Section 3.11 of Article III to Change the name of the City Accountant to the City Finance Director

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Council Meeting 08/15/2018

Council Meeting 11/7/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter Section 3.11 of Article III to change the name of the City Accountant to the City Finance Director

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the second read and up for adoption.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF CHANGING THE NAME OF THE CITY
ACCOUNTANT TO THE CITY FINANCE DIRECTOR; TO PROVIDE THAT THE
CITY COUNCIL HAS THE AUTHORITY TO MAKE THE APPOINTMENT; TO
DEFINE THE DUTIES OF THE CITY FINANCE DIRECTOR BY AMENDING
SECTION 3.11 OF ARTICLE III OF THE CITY CHARTER**

WHEREAS, Section 3.11 of the Charter of the City of Stonecrest, Georgia (the "City Charter") provides that the mayor may appoint a city account subject to the confirmation by the city council to perform the duties of an accountant; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire that the name of the City Accountant be changed to the City Finance Director, that the City Council appoint the City Finance Director and to further define the duties of the City Finance Director; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

WHEREAS, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a newspaper of general circulation in the municipal corporation once a week for

three (3) weeks prior to its final adoption, and a copy of the proposed amendment has been placed on file in the Office of the Clerk of the City of Stonecrest and in the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required by Georgia law; and

WHEREAS, the required notice will have been published within the statutory period of sixty (60) days immediately preceding the final adoption of this Ordinance amending the City Charter; and

WHEREAS, the title of this Ordinance shall have been read and this Ordinance duly adopted at two consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart as required by Georgia law.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:

Section 3.11 of Article III of the City Charter is hereby amended and restated in its entirety as follows:

“SECTION 3.11
City Finance Director

The city council shall appoint a City Finance Director to supervise and perform the financial accounting and treasury functions of the City of Stonecrest.”

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City 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 City 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.

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3. 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 City 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 the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.
 5. The within ordinance shall become effective upon its adoption.
 6. The provisions of this Ordinance shall become and be made part of the City Charter and shall be codified in accordance with state law.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-__ - __

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104 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____, 201__.

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Approved:

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Jason Lary, Sr., Mayor

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As to form:

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City Attorney

117 Attest:

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121 _____
Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Amend the Charter, Article IV for Amending the Titles of Persons serving as any Municipal Court Judge

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Council Meeting 08/15/2018

Council Meeting 11/07/2018

SUBMITTED BY: City Attorney

PURPOSE: This item is to amend the Charter, Article IV for Amending the Titles of Persons serving as any Municipal Court Judge.

HISTORY: This item was heard at the August 15th Special Called Meeting. It has been published in a newspaper once a week for three weeks within a sixty-day period immediately preceding its final adoption. This is the second read and up for final adoption.

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF STONECREST,
GEORGIA, FOR THE PURPOSE OF AMENDING THE TITLES OF PERSONS
SERVING AS ANY MUNICIPAL COURT JUDGE PURSUANT TO ARTICLE IV OF
THE CITY CHARTER**

WHEREAS, Article IV of the Charter of the City of Stonecrest, Georgia (the "City Charter") provides for the qualifications and duties of judges serving as any municipal court judge of the City of Stonecrest; and

WHEREAS, the Mayor and City Council of the City of Stonecrest desire rename the title of the judges of serving as municipal court judges of the City of Stonecrest; and

WHEREAS, the Mayor and City Council of the City of Stonecrest have determined that the City Charter should be amended by Home Rule to make the necessary change; and

WHEREAS, Article IX, Section II, Paragraph II of the Constitution of the State of Georgia, which is titled Home Rule for Municipalities, allows the General Assembly of the State of Georgia to provide by law for the self-government of municipalities, which the General Assembly has done with the Municipal Home Rule Act of 1965, provided in O.C.G.A. 36-35-1 *et seq.*;

WHEREAS, O.C.G.A. 36-35-3(b)(1) allows municipal charters to be amended by ordinances duly adopted at two (2) regular consecutive meetings of the municipal governing authority, not less than seven (7) nor more than sixty (60) days apart; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) requires a notice containing a synopsis of the proposed amendment to be published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks within a period of sixty (60) days immediately preceding its final adoption; and

WHEREAS, O.C.G.A. 36-35-3(b)(1) further requires that the notice shall state that a copy of the proposed amendment is on file in the office of the clerk of the municipal governing authority and in the office of the clerk of the superior court of the county of the legal situs of the municipal corporation for the purpose of examination and inspection by the public; and

WHEREAS, pursuant to O.C.G.A. 36-35-3(b)(1), the required notice has been published in a newspaper of general circulation in the municipal corporation once a week for three (3) weeks prior to its final adoption, and a copy of the proposed amendment has been placed on file in the Office of the Clerk of the City of Stonecrest and in

the Office of the Clerk of Superior Court of DeKalb County, Georgia, as required by Georgia law; and

WHEREAS, the required notice will have been published within the statutory period of sixty (60) days immediately preceding the final adoption of this Ordinance amending the City Charter; and

WHEREAS, the title of this Ordinance shall have been read and this Ordinance duly adopted at two consecutive City Council meetings not less than seven (7) nor more than sixty (60) days apart as required by Georgia law.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: That the Charter of the City of Stonecrest, Georgia, is hereby amended as follows:
Section 4.02, Section 4.03 and Section 4.06 of Article IV of the City Charter is amended and restated in its entirety to read as follows:

SECTION 4.02

Judges.

“(a) No person shall be qualified or eligible to serve as a judge unless he or she shall have attained the age of 28 years and shall have been a member of the State Bar of Georgia for a minimum of three years. The judges, including a judge to be designated the chief judge, shall be nominated by the mayor subject to approval by the city council. The compensation and number of the judges shall be fixed by the city council.

(b)

Before entering on the duties of his or her office, the chief judge and each other judge shall take an oath before an officer duly authorized to administer oaths in this state declaring that he or she will truly, honestly, and faithfully discharge the duties of his or her office to the best of his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes of the city council.

(d) Each judge, including the chief judge, shall serve for a term of four years but may be removed from the position by a two-thirds' vote of the entire membership of the city council or shall be removed upon action taken by the state Judicial Qualifications Commission for:

(1) Willful misconduct in office;

(2) Willful and persistent failure to perform duties;

(3) Habitual intemperance;

(4) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or

(5) Disability seriously interfering with the performance of duties, which is or is likely become of a permanent character.”

SECTION 4.03.

Convening.

The municipal court shall be convened at such times as designated by ordinance or at such times as deemed necessary by the chief judge, or any other judge in the absence of the chief judge due to his or her illness or disability, to keep current the dockets thereof.

SECTION 4.06.

Rules for court.

With the approval of the city council, the chief judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court.

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City 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 City 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.
3. 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 City 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 the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

5. The within ordinance shall become effective upon its adoption.

6. The provisions of this Ordinance shall become and be made part of the City Charter and shall be codified in accordance with state law.

SO ORDAINED AND EFFECTIVE this the _____ day of _____, 201__.

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Provide for the Creation of the Stonecrest Youth Council and For Other Purposes

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Work Session 10/03/2018

Council Meeting 11/07/2018

SUBMITTED BY: Council Member Adoma and Mayor Lary

PURPOSE: This item is to create the City of Stonecrest Youth Council.

HISTORY: The first read was on October 15, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, TO PROVIDE FOR
THE CREATION OF THE STONECREST YOUTH COUNCIL AND FOR OTHER
PURPOSES**

WHEREAS, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum;

WHEREAS, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

WHEREAS, Section 1.03(b)(42) of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants; and

WHEREAS, the City Council desires to establish a Youth Council to provide an opportunity for the youth of the City of Stonecrest to build leadership skills, learn about civic responsibility, gain a better understanding of municipal government, prepare for a lifetime of public and community service and acquire a greater knowledge of and appreciation for the American political system.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding a Division 3 of Article IV of Chapter 2 – Administration that reads as follows:

DIVISION 3. – STONECREST YOUTH COUNCIL.

Sec. 2-____. – Creation.

There is hereby created a board to be known as the Stonecrest Youth Council.

Sec.2-____. - Duties and responsibilities.

The Stonecrest Youth Council shall have the duty and responsibility to:

1. Evaluate and review problems facing youth in the city.
2. Facilitate neighborhood meetings with youth to discuss problems, needs, recommendations for community improvements.
3. Meet regularly with the mayor and city council to share ideas and discuss issues, concerns, and needed improvements.
4. Attend city council meetings and participate in vision and goal sessions.

- 46
47 5. Present recommended projects and programs to the city council and city manager.
48
49 6. Assist in planning youth/recreation activities.
50
51 7. Evaluate and advise the city council and/or city manager on issues forwarded to the
52 youth council for advice.
53

54 **Sec. 2-__ - Membership.**

- 55
56 1. The youth council shall be composed of [] members serving as an advisory
57 youth council to City of Stonecrest mayor and city council.
58
59 2. Youth council members must be city residents who are actively enrolled in a public,
60 private, or home school, in grades ninth through twelve, between the ages of 14-19.
61
62 3. Youth council members shall be chosen from applicants who express an interest in
63 public service during the application process which shall be between [August 15] and
64 [September 15] each year.
65
66 4. Youth council members shall be selected by the Stonecrest Youth Council
67 Committee.
68
69 5. Selection of youth council members shall occur on or before [September 30] of each
70 year, and members will be sworn in at the following [October] meeting of the city
71 council.
72
73 6. Youth council members shall serve a term of one (1) year.
74
75 7. Irregular vacancies on the youth council shall be filled as they occur and regular
76 vacancies shall be filled by appointment in [September or October] of each year.
77
78 8. Notwithstanding any provision to the contrary, a member may be removed by a
79 majority vote of mayor and city council.
80

81 **Sec. 2-__ - Compensation.**

82
83 Youth council members shall serve without compensation.
84

85 **Sec. 2-__ - Election of Officers.**

86
87 The youth council shall elect a chairman to conduct meetings and a vice chairman to
88 conduct meetings in the absence of the chairman. Elections shall be held at the first regular
89 meeting after selection by the Stonecrest Youth Council Committee.
90

Sec. 2-__ - Meetings and records.

The youth council shall adopt its rules of procedures, which shall be substantially similar to the rules of procedures of the city council.

The youth council shall hold at least one regular meeting per quarter [per month?], with the option to meet more often as needed or desired.

The youth council shall maintain a record of its activity which shall be a public record and shall be kept by the office of the city clerk.

All meetings shall be public.

Sec.2-__ - Absences from meetings.

Absences from three (3) consecutive regular meetings of the youth council shall cause a member to be removed from their seat, unless such absence is excused by a majority vote of the board, with such excuse duty entered upon its minutes.

Secs. 2-__.—2-__ - Reserved.

Section 3:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City 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 City 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.
3. 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 City 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,

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

5. The within ordinance shall become effective upon its adoption.

6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED AND EFFECTIVE this the _____ day of _____, 2018.

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance to Provide for the Creation of the Stonecrest Youth Council Advisory Committee and For Other Purposes

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Work Session 10/03/2018

Council Meeting 11/07/2018

SUBMITTED BY: Council Member Adoma and Mayor Lary

PURPOSE: This item is to create the City of Stonecrest Youth Council Advisory Committee.

HISTORY: The first read was held on October 15, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, TO PROVIDE FOR
THE CREATION OF THE STONECREST YOUTH COUNCIL ADVISORY
COMMITTEE AND FOR OTHER PURPOSES**

WHEREAS, the City of Stonecrest was created by Senate Bill 208, passed in the Georgia General Assembly during the 2016 Session and subsequently confirmed by referendum;

WHEREAS, Senate Bill 208 provided a charter for the City of Stonecrest (the "City Charter");

WHEREAS, Section 1.03(b)(42) of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants;

WHEREAS, the Mayor and City Council desire to establish the Stonecrest Youth Council to provide an opportunity for the youth of the City of Stonecrest to build leadership skills, learn about civic responsibility, gain a better understanding of municipal government, prepare for a lifetime of public and community service and acquire a greater knowledge of and appreciation for the American political system; and

WHEREAS, the Mayor and City Council desire to establish a Youth Council Advisory Committee made up of adult volunteers to assist the City and its staff in creating a program and curriculum for the aforementioned Stonecrest Youth Council and to provide oversight and management of the program.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding a Division 2 of Article V - Advisory Committees of Chapter 2 – Administration that reads as follows:

DIVISION 2. - STONECREST YOUTH COUNCIL COMMITTEE.

Sec. 2-145. – Creation.

There is hereby created the City of Stonecrest Youth Council Advisory Committee which shall be referred to as the Stonecrest Youth Council Advisory Committee.

Sec. 2-146. - Duties and responsibilities.

The Stonecrest Youth Council Advisory Committee shall have the following powers and duties:

1. Prepare and recommend for adoption each year by the city a curriculum and budget for the Stonecrest Youth Council program.

- 43 2. Review, evaluate and select youth candidates for participation in the program.
44 3. Monitor and provide oversight of the Stonecrest Youth Council program throughout the
45 year.

46
47 **Sec. 2-147. - Membership.**

- 48
49 1. Composition. The Stonecrest Youth Council Advisory Committee shall be composed of a
50 maximum of [] members, one (1) of whom shall be the city manager or his designee
51 which is an ex-officio, non-voting member of the committee.
52
53 2. Each member shall be nominated by the mayor and approved by the city council.
54
55 3. Term of Office. All members shall serve until the succeeding end of the city's fiscal year.
56 Consecutive terms are permissible. Members whose terms expire shall continue to serve
57 until a replacement is appointment or a consecutive appointment is made.
58
59 4. Vacancies. An appointment to fill any vacancy shall be for the remainder of the
60 unexpired term of office. A consecutive appointment is permissible.
61
62 5. Removal. Notwithstanding any provision to the contrary, a member may be removed for
63 cause by a vote of a majority of the city council in accordance with state law.
64
65 6. Qualifications. In order to be qualified, all members shall either be a resident of the city
66 or an owner or officer of a business domiciled in the city. Additionally, each member
67 shall pass a background examination. Should a member move out of the city or no longer
68 be an owner or an officer of a business domiciled in the city, he/she may remain active
69 until the mayor and council appoint his/her replacement.
70

71 **Sec. 2-148. - Compensation.**

72
73 Committee members shall serve without compensation.
74

75 **Sec. 2-149. - Quorum.**

76
77 A majority of the actual number of Stonecrest Youth Council Advisory Committee members
78 establishes a quorum. Any action taken requires a majority of affirmative votes of the quorum
79 present.
80

81 **Sec. 2-150. - Governance.**

- 82 1. The Stonecrest Youth Council Committee shall adopt its rules of procedures, which shall
83 be substantially similar to the rules of procedures of the city council.
84

2. The Stonecrest Youth Council Committee shall set its own meeting schedule and establish the meeting agendas.
3. The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of mayor and council.
4. All meetings at which official action is taken shall be open to the public and all records maintained by the committee shall be public records, unless expressly excepted by a provision of the Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq.
5. The committee shall keep minutes of its formal proceedings, showing the vote of each member upon each question and records of its examinations and other official actions, all of which shall be filed in the office of the city clerk. Copies of the minutes shall be sent to the mayor and each member of the city council. The minutes of the meetings shall be a public record.
6. The committee shall elect at its first meeting of the calendar year one of its members to serve as chairperson and one to service as vice chairperson for terms of one (1) year. The committee shall also elect a secretary to serve as the official record keeper of the committee.
7. Members must attend two-thirds (2/3) of meetings in a calendar year. Failure to do so warrants removal from the committee.
8. Expenditures of the committee, if any, shall be within the amounts appropriated for the purpose intended by the mayor and council during the annual budgeting process.

Secs. 2-____-2-____. - Reserved.

Section 3:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City 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 City 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.

- 127
128 3. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
129 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
130 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is
131 the express intent of the Mayor and City Council that such invalidity, unconstitutionality,
132 or unenforceability shall, to the greatest extent allowed by law, not render invalid,
133 unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
134 sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed
135 by law, all remaining phrases, clauses, sentences, paragraphs and sections of the
136 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
137
138 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith
139 are hereby expressly repealed.
140
141 5. The within ordinance shall become effective upon its adoption.
142
143 6. The provisions of this Ordinance shall become and be made part of The Code of the City
144 of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to
145 accomplish such intention.

146 **SO ORDAINED AND EFFECTIVE** this the ____ day of _____, 2018.

147 Approved:
148
149

150 _____
151 Jason Lary, Sr., Mayor
152

153 As to form:
154
155

156 _____
157 City Attorney
158

159 Attest:
160
161

162 _____
163 Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: An Ordinance Creating the Historic and Cultural Landmarks Commission of the City of Stonecrest

☒ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☐ **RESOLUTION** ☐ **OTHER**

Work Session 07/16//2018

Council Meeting 11/07/2018

SUBMITTED BY: Council Members Adoma & Rob Turner

HISTORY: First read was on October 115, 2018

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**AN ORDINANCE OF THE CITY OF STONECREST, GEORGIA, CREATING THE
HISTORIC AND CULTURAL LANDMARKS COMMISSION OF THE CITY OF
STONECREST, GEORGIA**

WHEREAS, Section 1.03(b)(3) of the City Charter provides that the City may regulate and license the erection and construction of buildings and all other structures; and

WHEREAS, Section 1.03(b)(42) of the of the City Charter grants the City the power to exercise and enjoy all other powers, functions and rights necessary or desirable to promote the general welfare of the City and its inhabitants; and

WHEREAS, O.C.G.A. 44-10-20 *et seq.* is known as the Georgia Historic Preservation Act and provides that municipalities electing to enact an ordinance to provide for the protection, enhancement, perpetuation, or use of historic properties or historic districts shall establish or designate a historic preservation commission; and

WHEREAS, the Mayor and City Council of the City of Stonecrest find it to be in the best interest of the City and its citizens to provide for the protection, enhancement, perpetuation, or use of historic properties or historic districts and desire to establish a historic preservation commission to be known as the Historic and Cultural Landmarks Commission of the City of Stonecrest, Georgia.

THEREFORE, the Mayor and City Council of the City of Stonecrest, Georgia, hereby ordain as follows:

Section 1: The Code of the City of Stonecrest, Georgia, is hereby amended by adding a Chapter 13.5 – Historic Preservation, that reads as follows:

CHAPTER 13.5 – HISTORIC PRESERVATION

Sec. 13.5-1. - Purpose.

In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of Stonecrest is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people;

In order to stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historic and aesthetic attractions to tourists and thereby promote and stimulate business;

In order to enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; and

In order to provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or state programs to do the same;

The Stonecrest city council hereby declares it to be the purpose and intent of this chapter to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects, landscape features and works of art having special historical, cultural or aesthetic interest or value, in accordance with the provisions of this chapter.

Sec. 13.5-2. - Definitions.

This article specifically adopts and incorporates the definitions contained in O.C.G.A. Section 44-10-22 of terms used within this chapter as defined in that code section, including but not limited to, the following:

Building means a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and a barn.

Certificate of appropriateness means a document approving a proposal to make a material change in the appearance of a designated historic property or of a structure, site, or work of art located within a designated historic district. The certificate of appropriateness must be obtained from a commission before such material change may be undertaken.

Commission means the Historic and Cultural Landmarks Commission of the City of Stonecrest, Georgia, created or established by O.C.G.A. Section 44-10-24, created within this chapter.

Designation means a decision by the governing authority of the City of Stonecrest to designate a property or district as a "historic property" or as a "historic district" and thereafter to prohibit all material changes, except as provided herein, in appearance of such property or within such district prior to the issuance of a certificate of appropriateness by the commission.

Exterior architectural features means the architectural style, general design, and general arrangement of the exterior of a building or other structure, including, but not limited to, the kind or texture of the building material; the type and style of all windows, doors, and signs; and other appurtenant architectural fixtures, features, details, or elements relative to the foregoing.

Exterior environmental features means all those aspects of the landscape or the development of a site which affect the historical character of the property.

Governing authority means the elected mayor and city council of the City of Stonecrest, Georgia.

Historic district means a geographically definable area, urban or rural, which contains structures, sites, works of art, or a combination thereof which:

- (1) Have special character or special historical or aesthetic interest or value;
- (2) Represent one or more periods or styles of architecture typical of one or more eras in the history of the city, county, state, or region; and

- (3) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.

Historic property means a structure, site or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of its value to the municipality, county, state, or region for one or more of the following reasons:

- (1) It is an outstanding example of a structure representative of its era;
- (2) It is one of the few remaining examples of a past architectural style;
- (3) It is a place or structure associated with an event or person of historic or cultural significance to the city, county, state, or region; or
- (4) It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, county, state, or region.

Material change in appearance means a change that will affect the exterior architectural features of a historic property or of any building, structure, site or work of art within a historic district, and may include any one or more of the following but shall not include exterior paint or paint color alterations:

- (1) A reconstruction or alteration of the size, shape, or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements;
- (2) Demolition of a historic property;
- (3) Commencement of excavation;
- (4) A change in the location of advertising visible from the public right-of-way on any historic property; or
- (5) The erection, alteration, restoration or removal of any building or other structures within a designated historic district, including walls, fences, steps, and pavements, or other appurtenant features, except exterior paint alterations.

Ordinance of designation means an ordinance formally proposed by the commission for consideration by the governing authority after the commission has studied a proposed historic property or historic district and determined that they appear to meet the criteria for designation established by this chapter.

Person includes any natural person, corporation or unincorporated association.

Sec. 13.5-3. – Historic and Cultural Landmarks Commission – Creation and appointment.

There is hereby created a commission whose title shall be the “Historic and Cultural Landmarks Commission of the City of Stonecrest”.

The commission shall be part of the planning functions of the city.

The commission shall consist of six (6) members, each of whom shall serve a maximum of two (2) consecutive three-year terms. All members shall be residents of the city and shall be

persons who have demonstrated special interest, experience or education in the preservation of historic resources, history or architecture. At least a majority of the members shall be licensed architects, landscape architects or interior designers or professionals in the fields of history, architectural history, planning or archaeology.

Commission members shall be appointed by the mayor, subject to confirmation by the city council. Should a member be unable to complete a term of office, the governing authority shall fill the vacancy for the remainder of the unexpired term in the same manner as making initial appointments. An individual appointed to serve the remainder of an unexpired term shall be eligible to be reappointed for an additional consecutive three-year term.

In order to achieve staggered terms, initial appointments shall be determined by lottery as follows: two (2) members for one (1) year; two (2) members for two (2) years; and three (3) members for (3) years.

Members shall serve until their successors are appointed and qualified. Members of the commission shall serve without compensation but may be reimbursed for reasonable expenses incurred.

Any member may be removed for cause by vote of a majority of the councilmembers.

Sec. 13.5-4. – Same – Powers and duties.

The commission shall be authorized to:

- (1) Prepare and maintain an inventory of all property within the City of Stonecrest having the potential for designation as historic property;
- (2) Recommend to the governing authority specific places, districts, sites, buildings, structures or works of art to be designated by ordinance as historic properties or historic districts which ordinance shall be in accordance with the provisions of this chapter and O.C.G.A. Section 44-10-26;
- (3) Review applications for certificates of appropriateness, and grant or deny same in accordance with the provisions of this chapter and O.C.G.A. Section 44-10-28;
- (4) Recommend to the governing authority that the designation of any place, district, site, building, structure, object or work of art as a historic property or as a historic district be revoked or removed;
- (5) Restore or preserve any historic properties acquired by the City of Stonecrest, with the approval of the governing authority;
- (6) Recommend to the governing authority the acquisition by the City of Stonecrest of conservation easements in accordance with the provisions of state law;
- (7) Conduct educational programs on historic properties located within the boundary of the city and on general historic preservation topics;

- (8) Make such investigations and studies of matters relating to historic preservation as the governing authority or the commission itself may, from time to time, deem necessary or appropriate;
- (9) Seek out local, state, federal and private funds for historic preservation and make recommendations to the governing authority concerning the most appropriate uses of any funds acquired;
- (10) Consult with historic preservation experts in the Division of Historic Preservation of the Department of Natural Resources or its successor and the Georgia Trust for Historic Preservation, Inc.;
- (11) Submit to the Division of Historic Preservation of the Department of Natural Resources or its successor a list of historic properties and historic districts pursuant to this chapter and O.C.G.A. Section 44-10-26.

Sec. 13.5-5. – Same – Meetings and quorum.

A quorum shall consist of a majority of the members.

The commission shall meet at least monthly unless the chair determines that insufficient business warrants holding a meeting, in which case the commission shall meet the following month.

Commission members must attend two-thirds of meetings in a calendar year. Failure to do so warrants removal from the body.

Sec. 13.5-6. – Same – Governance.

The commission shall adopt its rules of procedure, which shall be substantially similar to the rules of procedure of the city council and which do not conflict with O.C.G.A. Title 44, Chapter 10, which shall only be effective after submittal to and if approved by the city council.

The commission shall provide for the time and place of its regular meetings and a method for calling of special meetings.

The date and time of each meeting as well as agenda items to be considered shall be publicized in the same manner as meetings of the mayor and council.

Annually, at its first meeting of the calendar year, the members shall elect one of its members to serve as chairperson and one member to serve as vice chairperson. Additionally, the members shall also appoint a secretary to serve as the official record keeper.

All meetings of the commission shall be open to the public, and all records maintained by the commission shall be public records unless expressly exempted by a provision of the Georgia Open Records Act, O.C.G.A. 50-18-70 et seq.

The commission shall keep minutes of its proceedings, showing the vote of each member upon each question, and records of its examinations and other official actions, all of which shall be filed in the office of the city clerk. Copies of the minutes shall be sent to the mayor and each

204 city councilmember. The minutes of the meetings shall be a public record. This section shall not
205 be construed as prohibiting closed sessions when permitted by the state open meetings and open
206 records acts.

207 **Sec. 13.5-7. - Conflict of Interest.**

208 No commission member shall participate in the discussion on or vote on any matter in
209 which he or she may have a conflict of interest as defined within the City Charter or Code or
210 Official Code of Georgia Annotated.

211 **Sec. 13.5-8. - Designations.**

212 Designation of places, districts, sites buildings, structures, or works of art or historic
213 properties or historic districts shall be by ordinance adopted by the governing authority, which
214 shall be subject to the following requirements:

- 215 (1) *Studies.* The governing authority, a historical society, neighborhood organization,
216 property owner(s) or resident(s), may request that the commission initiate studies of
217 individual properties or districts to determine whether they meet the criteria specified in
218 this section of designation as historic properties or historic districts. The commission
219 may also initiate such a study or studies on its own initiative based on a review of the
220 city's historic resources. Upon determining that such recommended properties or
221 districts meet the criteria for designation, the commission may submit an ordinance for
222 designation to the governing authority in accordance with the provisions of this section.
- 223 (2) *Reports.* The commission shall prepare a report prior to submitting an ordinance for
224 designation to the governing authority. The report shall contain, as a minimum:
- 225 a. A physical description of the property(ies) and/or district(s) proposed for
226 designation;
- 227 b. A statement of the historical, cultural, architectural and/or aesthetic significance of
228 the same;
- 229 c. A map showing district boundaries and classification (e.g. historic, non-historic,
230 intrusive and other significant categories) of individual properties therein, or
231 showing boundaries of individual historic properties; and
- 232 d. Representative photographs.

233 These reports shall be used to educate the community and to provide a permanent
234 record of the designation.

- 235 (3) *Criteria.* The commission shall consider, but not be limited to, the following criteria
236 when considering recommendations to the governing authority for designation of
237 historic properties or districts.

- 238 a. Historic properties whether they:
- 239 1. Are an outstanding example of a structure representative of its era;

2. Are one of the few remaining examples of a past architectural style;
 3. Are a place or structure associated with an event or person of historic or cultural significance to the city, county, state or region; or
 4. Are a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, county, state or region.
- b. Historic districts whether they:
1. Have special character or special historic or aesthetic interest or value;
 2. Represent one or more periods or styles of architecture typical of one or more eras in the history of the city, county, state or region; and
 3. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.
- (4) *Notice to state.* No less than thirty (30) days prior to making a recommendation on any ordinance designating a property or district as historic and at least fifteen (15) days prior to the public hearing for such designation, the commission must submit the report, required in this Sec. 13.5-8(2) above, to the Historic Preservation Division of the Department of Natural Resources or its successor for review and comment, as required by O.C.G.A. Section 44-10-26(b).
- (5) *Ordinance.* Any ordinance designating any property as historic property or any district as a historic district shall:
- a. Require that the designated property or district be shown on the official zoning map of the city and be kept by the city as a public record to provide notice of such designation in addition to other notice requirements specified by this section;
 - b. Describe each property to be designated, set forth the name or names of the owner or owners of the property and require that a certificate of appropriateness be obtained from the commission prior to any material change in appearance of the designated property; and
 - c. Include a description of the boundaries of such district, list each property located therein, set forth the name or names of the owner or owners of each such property and require that a certificate of appropriateness be obtained from the commission prior to any material change in appearance of any structure, site or work of art located within the designated historic district.
- (6) *Notice and hearing.* The commission and the governing authority shall hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three (3) issues of the principal newspaper of local circulation; and written notice of the hearing shall be mailed to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing. A notice mailed to the last known owner of the property shown on the city tax digest and a notice mailed to the address of the property on which

residences or businesses are located to the attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.

This published notice shall state the time, date, place and purpose of the hearing. This published notice shall also include the location or boundaries of the property or properties, the existing zoning classification and historic designation, if any, and a statement that the property could be proposed for historic designation during the proposal process.

The commission shall give notification of the proposal by mail to all abutting property owners as shown by DeKalb County tax records. Such notification shall be mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing and shall include a description of the application and the date, time and place of the public hearing.

The commission shall cause to be erected a sign or signs giving notification of the date, time and place of a public hearing to consider the proposed historic designation. In the case of a historic property, one (1) sign shall be placed on the property visible from a public street. In the case of a historic district, signs shall be placed at each point where the district boundary intersects a public street.

- (7) *Recommendation to governing authority.* A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the commission within fifteen (15) days following the public hearing and shall be in the form of a resolution to the governing authority.

Following receipt of the commission's recommendation, the governing authority may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

- (8) *Final notice.* Within thirty (30) days following a designation by the governing authority, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site or work of art located within a designated historic district, shall be given written notification of such designation by the governing authority. The notice shall apprise owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last known owner of the property shown on the City tax digest and a notice sent via United States Mail shall constitute legal notification to the owner and occupant under this ordinance.

- (9) *Notification of other agencies regarding designation.* The commission shall notify all necessary agencies with the city of the ordinance for designation.

- (10) *Moratorium on applications for alteration or demotion while ordinance for designation is pending.* If an ordinance for designation is being considered, the commission shall have the power to freeze the status of the involved property.

Sec. 13.5-9. - Certification of appropriateness.

After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of such historic property, or of a structure, site or work of art within such historic district shall be made or be permitted to be made by the owner or occupant thereof unless and until an application for a certificate of appropriateness has been submitted and approved by the commission. A building permit shall not be issued without a certificate of appropriateness.

- (1) *Application for certificate of appropriateness.* Owners of historic property or of property in a historic district, or their duly authorized agents, must make application for a certificate of appropriateness on forms and according to procedures promulgated by the commission for such purpose. The Georgia Department of Transportation and contractors performing work funded by the Georgia Department of Transportation are exempt from provisions of this chapter. Local governments are also exempt from obtaining certificates of appropriateness but shall notify the commission at least forty-five (45) days prior to beginning or undertaking any work that would otherwise require a certificate of appropriateness, so as to allow the commission an opportunity to comment. All applications for certificates of appropriateness shall be accompanied by drawings, photographs, plans and documentation as required by the commission. Notarized authorization of the property owner shall be required if the applicant is not the owner of record.

- (2) *Public hearings on applications for certificates of appropriateness, notices and right to be heard.* The commission shall hold a public hearing at which each proposed certificate of appropriateness is discussed. Notice of the hearing shall be published in the principal newspaper of local circulation in the city and written notice of the hearing shall be mailed by the commission to all owners and occupants of the subject property. The written and published notice shall be provided in the same manner and time frame as notices are provided before a Public Hearing for Rezoning.

The commission shall give the property owner and/or applicant an opportunity to be heard at the certificate of appropriateness hearing.

- (3) *Review of applications.* When reviewing applications for certificates of appropriateness, the commission shall consider, in addition to any other pertinent factors, historical and architectural value and significance; architectural style; general design; arrangement; texture and materials of the architectural features involved and the relationship thereof to the exterior architectural style; and pertinent features of other properties in the immediate neighborhood. When considering applications for existing buildings, the Secretary of the Interior's Standards for Historic Preservation Projects, including the Standards for Rehabilitation, shall be used as a guideline.

- (4) *Interior changes.* In its review of applications for certificates of appropriateness, the commission shall not consider interior arrangements or uses having no effect on exterior architectural features. The commission may delegate the responsibility for determining the extent of interior change and its effect on the exterior appearance to the planning director or his designee.

- (5) *Demolition.* A decision may be made by the commission approving or denying a certificate of appropriateness for the demolition of buildings, structures, sites or objects.
- (6) *Ordinary maintenance and repair.* Ordinary maintenance or repair of any exterior architectural feature in or on a historic property, that does not involve a material change in design, material, or outer appearance thereof, is excluded from review and does not require a certificate of appropriateness.
- (7) *Approval.* The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in appearance would not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district. The commission may approve the application as proposed, approve it with modifications, or deny the application. The commission shall approve, approve with modifications or deny an application for a certificate of appropriateness within forty-five (45) days after the filing thereof by the applicant unless an extension is requested by the applicant and granted by the commission. Evidence of approval shall be by certificate of appropriateness issued by the commission. Failure of the commission to act within said forty-five (45) days shall constitute approval and a certificate of appropriateness shall be issued.
- (8) *Final action.* The commission's decision, whether to accept or reject an application shall be in writing. The written decision shall be signed by the chair or the vice-chair and must clearly set forth the reasons for the decision, including whether the guidelines have been met and specifically which factors, as set forth in section 13.5-8(3), were considered in reaching the decision. In the event the commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and the reasons therefor, in writing, to the applicant. Approval of an application shall also result in the issuance of a certificate of appropriateness. Notice of the issuance or denial of a certificate of appropriateness shall be sent to the applicant and all other persons who have filed a written request for such notice with the commission. All work performed pursuant to a certificate of appropriateness shall conform to the requirements of such certificate and by other applicable laws. In the event work is performed which is not in accordance with such certificate or laws, the city shall issue a cease and desist order and all work shall cease. A certificate of appropriateness shall become void unless construction is commenced within twelve (12) months of the date of the issuance. Certificates of appropriateness shall be issued for a period of eighteen (18) months and are not renewable.
- (9) *Revised applications.* The commission may suggest alternative courses of action if it denies the application submitted. The applicant may make modifications to the plans and may resubmit the application at any time after making such modifications as suggested by the commission.
- (10) *Prohibition on issuance of development permits.* In cases where the application covers a material change in the appearance of a structure, which would require the issuance of a permit of any kind, the denial of the application for a certificate of appropriateness shall be binding upon the city and no permit related to the rejection of the application for a certificate of appropriateness shall be issued by the city.

405 (11) *Official record.* The commission shall keep a public record of all applications for
406 certificates of appropriateness and of all the commission's proceedings in connection
407 with applications. Such records shall be maintained by the planning director. In the
408 event of an appeal to the governing authority, the official record of the commission's
409 decision shall consist of the application, any accompanying drawings, renderings or
410 photographs, written comments from planning department staff, written comments of
411 any participant at the hearing before the commission and the commission's written
412 decision. Such records shall be available for review in the planning department within
413 ten (10) days of a final decision by the commission on the certificate of appropriateness.

414 (12) *Appeal to the governing authority.* Any person adversely affected by any decision
415 made by the commission relative to the issuance or denial of a certificate of
416 appropriateness (i.e. the applicant or any owner of adjoining property or owner of
417 property whose property line is within one thousand five hundred (1,500) feet of the
418 applicant's property according to the DeKalb County tax records) may appeal such
419 decision to the governing authority. The appeal shall be limited to a review of the record
420 of the proceedings before the commission. The standard of review shall be an abuse of
421 discretion. An abuse of discretion exists where the record presented to the governing
422 authority shows that the commission exceeded the limits of its authority or that the
423 commission's decision was not based on factors set forth in the section 13.5-9(3) or the
424 guidelines adopted by the commission pursuant to section 13.5-6 or that the
425 commission's decision was otherwise arbitrary and capricious. If the governing
426 authority finds no abuse of discretion, then it may affirm the decision of the
427 commission. If the governing authority finds that the commission abused its discretion
428 in reaching a decision, then it may reverse the commission's decision, or it may reverse
429 the commission's decision and remand the application to the commission with direction.
430 All appeals must comply with the procedures set forth below:

- 431 a. Any appeal must be filed in writing with the city clerk using an appeal form
432 provided by the planning director, within fifteen (15) days after the date of issuance
433 or denial of the certificate of appropriateness. The appellant shall also deliver
434 copies of the appeal to the planning department and the city attorney.
- 435 b. In the written appeal, the appellant must describe how the commission's decision
436 constitutes an abuse of discretion. Specifically, the appellant must, citing to the
437 commission's written decision, show at least one (1) of the following: that the
438 commission exceeded the limits of its authority, or that the commission's decision
439 was not based on factors set forth in the section 13.5-9(3) or on the guidelines
440 adopted by the commission pursuant to section 13.5-6, or that the commission's
441 decision was otherwise arbitrary and capricious.
- 442 c. In addition to the appeal form, the appellant may submit a written supplementary
443 explanation in support of the appeal. The supplementary explanation shall be
444 submitted with the appeal. The supplementary explanation may not exceed three (3)
445 pages and must be typewritten and double-spaced using a twelve-point font with a
446 one-inch margin on all four (4) sides. The governing authority will not consider
447 text in excess of the page limit set forth herein.

d. Any adversely affected person may also submit a written supplementary explanation that must comply with all of the requirements set forth in section 13.5-9(12)c, in support of, or in opposition to the appeal. All written supplementary explanations authorized by this subsection must be filed within five (5) days after the appeal is filed. Such written supplementary explanations must be filed with the city clerk with copies to the planning director, and the city attorney.

e. The planning department shall submit appeals of the decisions of the historic commission to the governing authority for consideration at any of the city council's regularly scheduled meetings within forty-five (45) days of the issuance of the decision from the commission.

f. The agenda item shall set forth the standard of review to be used by the governing authority in deciding the appeal. The official record of the commission's decision together with the appeal and all properly filed written supplemental explanations in support and in opposition to the appeal, will be attached to the governing authority's agenda item. The governing authority may not consider any written document that is not attached as the official record to the governing authority's agenda item for the appeal. The appellant and any person who has filed a statement in opposition to, or in support of the appeal may attend the meeting and may be called upon by any member of the governing authority to provide information or answer questions. There shall be no other public participation in the appeal.

g. The governing authority shall render a decision on the appeal within thirty (30) days of the first appearance of the appeal on the city council's agenda.

(13) *Appeals to Superior Court.* An appeal from a decision of the governing authority shall be made by a petition for writ of certiorari to the Superior Court of DeKalb County.

(14) *Court action.* The governing authority is authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in the appearance of a designated historic property or district, except those changes made in compliance with the provisions of this chapter, or to prevent any illegal act or conduct with respect to such historic property or district.

Sec. 13.5-10. - Acquisitions.

The commission may, where such action is authorized by the governing authority and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner of properties or of properties within historic districts for the acquisition by gift, purchase, exchange or otherwise of ownership of the property or any interest therein. Final approval and ownership of these properties would be determined by the governing authority.

Sec. 13.5-11. - Failure to maintain historic property.

Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The

488 commission shall monitor the condition of historic properties and existing buildings, structures,
489 sites and works of art located in historic districts to determine if they are being allowed to
490 deteriorate by neglect.

491 If the commission determines a failure to provide ordinary maintenance and repair, the
492 commission will notify the owner of the property and set forth the steps which need to be taken
493 to remedy the situation. The owner of such property shall have thirty (30) days to initiate the
494 appropriate repairs.

495 In the event that efforts to correct the condition are not commenced within thirty (30) days,
496 the owner shall be considered in violation of this chapter and shall be subject to fines not to
497 exceed one thousand dollars (\$1,000.00) for each day of violation. Alternatively, at the direction
498 of the governing authority, the commission may perform such maintenance or repair as is
499 necessary to prevent deterioration by neglect. The owner of the property shall be liable for the
500 cost of such maintenance and repair performed by the commission.

501 **Sec. 13.5-12. - Exceptions.**

502 Where by reason of unusual circumstances, the strict application of any provision of this
503 chapter would result in exceptional practical difficulty or undue hardship upon any owner of any
504 specific property, the commission in passing upon applications shall have power to vary or
505 modify strict adherence to said provisions or to interpret the meaning of said provisions so as to
506 relieve such difficulty or hardship; provided, however, that such variance, modification, or
507 interpretation shall remain in harmony with the general purpose and intent of said provisions so
508 that the architectural or historical integrity or character of the property shall be conserved and
509 substantial justice done. In granting variations, the commission may impose such reasonable and
510 additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this
511 chapter. An undue hardship shall be a situation beyond the control of the applicant, which is a
512 problem unique to a specific property or in order to comply with this chapter, the person will
513 violate another ordinance of the city. The burden of demonstrating the existence of the hardship
514 by a preponderance of evidence shall be with the applicant.

515 **Sec. 13.5-13. - Application fees.**

516 Each application for a certificate of appropriateness shall be accompanied by a fee in an
517 amount established by the governing authority, a copy of which will remain on file in the
518 planning department, to partially defray the public expense in processing such application. The
519 fee shall not be required for an application filed by the city.

520 **Sec. 13.5-14. - Penalties.**

521 Any person who does anything prohibited by the chapter as it exists or as it may hereafter be
522 amended, or who fails to do anything required by this chapter as it now exists or as it may
523 hereafter be amended, upon conviction of a violation, shall be subject to punishment as provided
524 by law. Each day this violation exists shall be deemed a separate offense.

525 **Sec. 13.5-15. - Severability.**

Nothing in the chapter shall be construed as to exempt property owners from complying with existing city building and zoning codes, nor prevent any property owner from making any use of this property not prohibited by other statutes, ordinances or regulations.

Sec. 13.5-16. - Severability.

In the event that any section, subsection, sentence, clause, or phrase of this chapter shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses, or phrases of this chapter, which shall remain in full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Sec. 13.5-17. - Repeal of conflicting ordinances.

This chapter is the Historic Preservation Ordinance of the City of Stonecrest, and all other conflicting ordinances or resolutions are hereby repealed.

Section 2:

1. It is hereby declared to be the intention of the Mayor and City Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Mayor and City Council to be fully valid, enforceable and constitutional.
2. It is hereby declared to be the intention of the Mayor and City 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 City 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.
3. 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 City 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 the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

ORDINANCE 2018-_____

5. The within ordinance shall become effective upon its adoption.

6. The provisions of this Ordinance shall become and be made part of The Code of the City of Stonecrest, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED AND EFFECTIVE this the ____ day of _____, 2018.

Approved:

Jason Lary, Sr., Mayor

As to form:

City Attorney

Attest:

Brenda James, City Clerk



CITY COUNCIL AGENDA ITEM

SUBJECT: Resolution finding AT&T of Georgia be in Violation of State Law by not
Paying the City a Franchise Fee

☐ ORDINANCE ☐ POLICY ☐ STATUS REPORT
☐ DISCUSSION ONLY ☒ RESOLUTION ☐ OTHER

Council Meeting 11/07/2018

SUBMITTED BY: Plez Joyner, Assistant City Manager

PURPOSE: The City Attorney has advised Mayor and Council Members that AT&T is in violation of 46-5-1(b) (11) for failure to pay the City of Stonecrest a franchise fee of 3% of gross revenues derived from the operation of the telecommunication system to provide telecommunication service.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**A RESOLUTION OF THE CITY OF STONECREST GEORGIA FINDING AT&T
GEORGIA TO BE IN VIOLATION OF STATE LAW BY NOT PAYING THE CITY A
FRANCHISE FEE**

RECITALS:

1. The City of Stonecrest, Georgia ("City") became incorporated and began municipal operations on Jan 1, 2017 ("Date of Incorporation").
2. Bellsouth Telecommunications, LLC. d/b/a/ AT&T Georgia ("AT&T") provides telecommunication service within the City limits and has not paid the City any compensation for the use of the public rights of way since the Date of Incorporation.
3. Pursuant to Chapter 5 of Title 46 of the Official Code of Georgia Annotated, ("O.C.G.A.") as amended in 2008 by Senate Bill 379 which contains provisions that require the payment of due compensation to municipalities.
4. In a letter dated August 31, 2017 (Exhibit A) and as required by 46-5-1(b) (11) O.C.G.A., the City notified AT&T that payment for franchise fees as due compensation is hereby requested by the City of Stonecrest beginning as soon as possible with payments made within 30 calendar days after the last day of each calendar quarter days as required by the statute.
5. The City has made numerous requests to AT&T for payment of the franchise fee and was informed in an email by AT&T on December 28, 2017 the City would be paid franchise fees on telecommunication services for the 4th quarter of 2017 payable 30 days after the end of the quarter or by January 30, 2018. (see Exhibit B attached hereto and made part of this Resolution).
6. On September 28, 2018 the City sent a demand letter to AT&T pursuant to 46-5-1(b)(11) O.C.G.A. that notified AT&T that if payment was not remitted before the expiration of the 15 day cure period, AT&T shall pay interest thereon at the rate of 1 percent (1%) per month to the City. (see Exhibit C attached hereto and made part of this Resolution).
7. As of the date of this Resolution the City has not received compensation payments from AT&T.

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

1. The recitals set forth above are hereby incorporated in their entirety.
2. As of the date of this Resolution the City has not received any franchise fee payments from AT&T.
3. The City Attorney has advised Mayor and Councilmembers that AT&T is in violation of 46-5-1(b) (11) for failure to pay the City due compensation of 3% of gross revenues

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

RESOLUTION 2018-_____

derived from the operation of the telecommunication system to provide telecommunication service.

4. The City Manager is hereby authorized to provide AT&T with written notice of this resolution and the City Manager is further authorized to take legal action in consultation with the City Attorney and other advisors to prevent AT&T from continuing to operate a telecommunication system within its rights of way in the City in violation of state and federal law.

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

A motion to approve the foregoing Resolution No. _____ was made by City Council Member _____ and duly seconded by City Council Member _____.

The following City Council Members voted in the affirmative: _____

The following City Council Members voted in the negative: _____

Passed and adopted by the City of City of Stonecrest, Georgia this 7th day of November 2018.

GEORGIA

CITY OF STONECREST,

By: _____
Jason Lary, Sr., Mayor

Attest:

Brenda James, City Clerk

August 31, 2017

VIA EMAIL (lk2673@att.com & sd3986@att.com)



AT&T Legal Department
Attn: Mr. A. Langley Kitchings
General Attorney
675 W. Peachtree
Suite 4327
Atlanta, GA 30308

Re: Payment of Due Compensation Pursuant to Chapter 5 of Title 46 of the Official Code of Georgia Annotated as amended in 2008 by Senate Bill 379

Dear Mr. Kitchings:

Pursuant to Chapter 5 of Title 46 of the Official Code of Georgia Annotated, ("O.C.G.A.") as amended in 2008 by Senate Bill 379 which contains provisions that require the payment of due compensation to municipalities.

As required by 46-5-1(b) (11) O.C.G.A., this letter is to notify AT&T that payment for franchise fees as due compensation is hereby requested by the City of Stonecrest beginning as soon as possible with payments made within 30 calendar days after the last day of each calendar quarter days as required by the statute.

Finally, I have enclosed a ZIP file with the boundaries of the City along with street names for your use and have attached a report form to accompany quarterly payments to the City.

Attached is a Due Compensation Report Form that should accompany each quarterly payment. Please direct all questions to Mr. Greg Fender with Local Government Services at 706-482-9933 who assists the City with these matters. Thank you in advance for assisting the City with this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Harris".

Michael Harris
City Manger

CC: Mayor and City Council
Plez A. Joyner, Assistant City Manager
Mr. Greg Fender, Local Government Services, LLC

Encl.

**CITY OF STONECREST
DUE COMPENSATION REPORT FORM
FOR COMPANIES WITH END USER RETAIL CUSTOMERS**

QUARTER ENDING _____

REVENUE ACCOUNTS:

47 C.F.R. 32.5000	Basic local service revenue	\$ _____
47 C.F.R. 32.5001	Basic Area Revenue	_____
47 C.F.R. 32.5002	Optional Extended Area Revenue	_____
47 C.F.R. 32.5010	Public Telephone	_____
47 C.F.R. 32.5040	Local Private Line	_____
47 C.F.R. 32.5060	Other Local Exchange Revenue	_____
47 C.F.R. 32.5069	Local Exchange Service	_____
47 C.F.R. 32.5080	Network Access Revenue	_____
47 C.F.R. 32.5230	Directory Revenue	_____
47 C.F.R. 32.5280	Nonregulated Operating Revenue	_____
47 C.F.R. 32.5300	Uncollectible Revenue	_____

Total actual recurring local services revenues _____

Due Compensation Percentage x 3%

Due compensation remitted _____

I hereby certify that this report has been examined by me and that the information contained herein is complete and correct to the best of my knowledge.

BY:

TITLE:

DATE

PLEASE REMIT PAYMENT TO:

City of Stonecrest
ATTN: Mr. Michael Harris
City Manager
City Hall
3120 Stonecrest Blvd.
Stonecrest, GA 30038



From: DANIELS, SONIA C <sd3986@att.com>
Sent: Thursday, December 28, 2017 11:09 AM
To: Plez Joyner; LADIPO, FATIMOT
Cc: Greg Fender; rgfender@windstream.net; Michael Harris
Subject: RE: AT&T Franchise Fee Payment for the City of Stonecrest

I'm sorry, but we don't have any information that can be used to estimate what the payment would be.

Sonia Daniels
External Affairs-AT&T Georgia
M: 404-791-3230

From: Plez Joyner [mailto:PJoyner@stonecrestga.gov]
Sent: Thursday, December 28, 2017 11:02 AM
To: DANIELS, SONIA C <sd3986@att.com>; LADIPO, FATIMOT <fl516a@att.com>
Cc: Greg Fender (ghfender@windstream.net) <ghfender@windstream.net>; rgfender@windstream.net; Michael Harris <MHarris@stonecrestga.gov>
Subject: RE: AT&T Franchise Fee Payment for the City of Stonecrest

Ms. Daniels,

As the city finalizes its budget, is it possible to provide an estimate on what that quarterly payment may be?

Thanks again for the update.

Best regards,

Plez A. Joyner
Asst. City Manager | Stonecrest, Georgia

3120 Stonecrest Blvd, Stonecrest, GA 30038
404.915.5038 (Mobile)
770.224.0200 (City Hall)
PJoyner@stonecrestga.gov



From: DANIELS, SONIA C [mailto:sd3986@att.com]
Sent: Thursday, December 28, 2017 10:51 AM
To: Plez Joyner <PJoyner@stonecrestga.gov>; LADIPO, FATIMOT <fl516a@att.com>
Cc: Greg Fender (ghfender@windstream.net) <ghfender@windstream.net>; rgfender@windstream.net; Michael Harris <MHarris@stonecrestga.gov>
Subject: RE: AT&T Franchise Fee Payment for the City of Stonecrest

Mr. Joyner:

Telecom fees and video fees for City of Stonecrest were set to begin billing by AT&T during the 4th quarter of 2017 (Oct. 1 or later). Payment or remittance of any fees collected are made on a quarterly basis, payable 30 days after the end of the quarter. Remittances for 4th quarter 2107 will be made Jan. 30th 2018.

If you have additional questions, feel free to contact me.

Sonia Daniels
External Affairs-AT&T Georgia
M: 404-791-3230

From: Plez Joyner [<mailto:PJoyner@stonecrestga.gov>]
Sent: Wednesday, December 27, 2017 3:11 PM
To: LADIPO, FATIMOT <fl516a@att.com>; DANIELS, SONIA C <sd3986@att.com>
Cc: Greg Fender (ghfender@windstream.net) <ghfender@windstream.net>; rgfender@windstream.net; Michael Harris <MHarris@stonecrestga.gov>
Subject: AT&T Franchise Fee Payment for the City of Stonecrest

Sonia & Fatimot,

I am reaching out to you to gain some closure on the amount and status of the franchise fee payment to the City of Stonecrest. As 2017 draws to a close, there are several accounting matters that need to be addressed and two of our unaccounted for revenue line items are the AT&T Phone and AT&T U-Verse franchise fee payments.

It appears the city has provided you with the approved ordinances, along with supporting letters/email messages establishing a franchise in the City of Stonecrest for AT&T products. I'd really like to get a response within the next 24 hours so any necessary adjustments to the city's budget can be made prior to December 31, 2017.

If you have any questions or concerns, do not hesitate to contact me on my cell phone: 404-915-5038. Thank you.

Best regards,

Plez A. Joyner
Asst. City Manager | Stonecrest, Georgia

3120 Stonecrest Blvd, Stonecrest, GA 30038
404.915.5038 (Mobile)
770.224.0200 (City Hall)
PJoyner@stonecrestga.gov





Jason Lary, Mayor

City of Stonecrest
3120 Stonecrest Blvd
Stonecrest, GA 30038
www.stonecrestga.gov



September 28, 2018

VIA EMAIL sd3986@att.com AND CERTIFIED MAIL RETURN RECEIPT REQUESTED

AT&T
Attn: Ms. Sonia Daniels
Area Manager
675 W. Peachtree
Room 36-024
Atlanta, GA 30375

Re: **Payment of Due Compensation Pursuant to Chapter 76 of Title 36 of the Official Code of Georgia Annotated as amended in 2008 by House Bill 227**

Dear Ms. Daniels:

Chapter 76 of Title 36 of the Official Code of Georgia Annotated, ("O.C.G.A.") as amended in 2008 by House Bill 227 contains provisions that require the quarterly payment of due compensation to municipalities. I am also enclosing a copy of an email from you dated December 28, 2017 in which you communicated to me the City would receive its first quarterly payment January 30, 2018. As of the date of this letter the City has not received payment.

The purpose of this letter, written pursuant to 36-76-6(b)(2) O.C.G.A., is to notify AT&T that payment for the calendar quarters ending December 31, 2017, March 31, 2018 and June 30, 2018 has not been received by the city as required by the statute. Since payments have not been received as required I am obligated by the statute to send notice to the company requesting payment 15 calendar days from the date the company receives this notice. In the event the due compensation is not remitted to the City on or before the expiration of the 15 day cure period, AT&T shall pay interest thereon at the rate of 1 percent (1%) per month to the City.

Please direct all questions to Plez Joyner, Assistant City Manager at 770-224-0200 or to Ryan Fender at 706-482-9933 who is assisting the City with this matter.

Sincerely,

Michael Harris
City Manager

CC: Plez Joyner, Assistant City Manager
Ryan Fender

✓



CITY COUNCIL AGENDA ITEM

SUBJECT: Resolution finding AT&T of Georgia be in Violation of State Law by not Paying the City a Franchise Fee

☐ **ORDINANCE** ☐ **POLICY** ☐ **STATUS REPORT**
☐ **DISCUSSION ONLY** ☒ **RESOLUTION** ☐ **OTHER**

Council Meeting 11/07/2018

SUBMITTED BY: Plez Joyner, Assistant City Manager

PURPOSE: The City Attorney has advised Mayor and Council Members that AT&T is in violation of 36-76-6 (a) for failure to pay the City of Stonecrest a franchise fee of 5% of gross revenues derived from the operation of the video system to provide video service.

HISTORY:

FACTS AND ISSUES:

OPTIONS:

RECOMMENDED ACTION: Recommendation of Council

**A RESOLUTION OF THE CITY OF STONECREST GEORGIA FINDING AT&T
GEORGIA TO BE IN VIOLATION OF STATE LAW BY NOT PAYING THE CITY A
FRANCHISE FEE**

RECITALS:

1. The City of Stonecrest, Georgia ("City") became incorporated and began municipal operations on Jan 1, 2017 ("Date of Incorporation").
2. Pursuant to the Consumer Choice for Television Act O.G.C.A. 36-76-3 et seq. and 47 U.S.C. § 541 (4) (b) (1) a video service provider shall not provide video service without a franchise.
3. BellSouth Telecommunications, Inc. d/b/a/ AT&T Georgia ("AT&T") is a holder of a state franchise issued February 14, 2008 and provides video service within the City limits and has not paid the City any compensation for the use of the public rights of way since the Date of Incorporation.
4. Pursuant to O. C.G.A 36-76-6 the City on July 17, 2017 approved Resolution 2017 - 02 establishing a franchise fee of 5% of gross revenues earned by any video provider within the geographical boundaries of the City holding a state franchise pursuant to the Consumer Choice for Television Act. (see Exhibit A attached hereto and made part of this Resolution).
5. In accordance with O.C.G.A 36-76-6 (a) (2) the City provided AT&T a copy of Resolution 2017 - 02, provided AT&T a list of the City's addresses that were verified by DeKalb County as being addresses within the City and provided written notice to the Secretary of State (see Exhibit B attached hereto and made part of this Resolution).
6. The City has made numerous requests to AT&T for payment of the franchise fee and was informed in an email by AT&T on December 28, 2017 the City would be paid franchise fees on video services for the 4th quarter of 2017 payable 30 days after the end of the quarter or by January 30, 2018. (see Exhibit C attached hereto and made part of this Resolution).
7. On September 28, 2018 the City sent a demand letter to AT&T pursuant to 36-76-6(b)(2) O.C.G.A. that notified AT&T that if payment was not remitted before the expiration of the 15 day cure period, AT&T shall pay interest thereon at the rate of 1 percent (1%) per month to the City. (see Exhibit D attached hereto and made part of this Resolution).
8. As of the date of this Resolution the City has not received franchise fee payments from AT&T.

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

1. The recitals set forth above are hereby incorporated in their entirety.

STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF STONECREST

RESOLUTION 2018-_____

- 46
47 2. As of the date of this Resolution the City has not received any franchise fee payments
48 from AT&T.
49
50 3. The City Attorney has advised Mayor and Councilmembers that AT&T is in violation of
51 36-76-6 (a) for failure to pay the City a franchise fee of 5% of gross revenues derived from
52 the operation of the video system to provide video service.
53
54 4. The City Manager is hereby authorized to provide AT&T with written notice of this
55 resolution and is further authorized to take legal action in consultation with the City
56 Attorney and other advisors to enforce state law.
57

58 This Resolution shall take effect and continue and remain in effect from and after the date
59 of its passage, approval, and adoption.
60

61 A motion to approve the foregoing Resolution No. _____ was made by City Council
62 Member _____ and duly seconded by City Council Member _____
63 _____.
64

65 The following City Council Members voted in the affirmative: _____
66 _____.

67
68 The following City Council Members voted in the negative: _____
69 _____.

70
71 Passed and adopted by the City of City of Stonecrest, Georgia this 7th day of November
72 2018.
73

74
75 GEORGIA

CITY OF STONECREST,

76
77 By: _____
78 Jason Lary, Sr., Mayor
79

80
81
82 Attest:

83
84
85 _____
86 Brenda James, City Clerk



1 STATE OF GEORGIA
2 COUNTY OF DEKALB
3 CITY OF STONECREST

RESOLUTION 2017-02

4 **A RESOLUTION TO ESTABLISH A FRANCHISE FEE**
5 **IN THE CITY OF STONECREST FOR HOLDERS OF A**
6 **CABLE OR VIDEO SERVICE PROVIDER STATE FRANCHISE**

7 **WHEREAS**, Section 1.03 of the Charter of the City of Stonecrest, Georgia ("City") grants the
8 City power to grant franchises for cable services and collect fees in connection
9 therewith; and

10 **WHEREAS**, the Georgia Legislature passed the Consumer Choice for Television Act ("CCTA")
11 in 2007, HB 227 and codified in Chapter 76 of Title 36 of the Official Code of
12 Georgia Annotated; and

13 **WHEREAS**, the CCTA grants the right to providers of cable and video services to elect to
14 obtain a state franchise to provide such services in lieu of a negotiated agreement
15 with each jurisdiction, and allows each jurisdiction to charge a standard fee upon
16 holders of a state franchise, on gross revenues derived from provision of cable and
17 video services within the geographical boundaries of each jurisdiction; and

18 **WHEREAS**, the City desires to establish a franchise fee for all holders of a state franchise for
19 video and cable services who desire to provide those services to customers within
20 the boundaries of the City; and

21 **WHEREAS**, Mayor and City Council have determined to establish a franchise fee of five
22 percent (5%) of gross revenue of each cable or video service provider holding a
23 state franchise, pursuant to 47 U.S.C. §542, and to charge it uniformly to every
24 holder of a state franchise as required by the CCTA.

25 **NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the City of Stonecrest,
26 Georgia that a franchise fee of five percent (5%) of gross revenue earned by any provider of
27 cable and video services within the geographical boundaries of the City of Stonecrest, Georgia
28 holding a state franchise pursuant to the CCTA is hereby established.

29 **SO RESOLVED** this the 17 day of July, 2017.

30 Approved:
31
32
33
34
35
36

A handwritten signature in black ink, appearing to read "Jason W. Lary". Below the signature, the text "Jason Lary, Sr., Mayor" is printed.

Jason Lary, Sr., Mayor

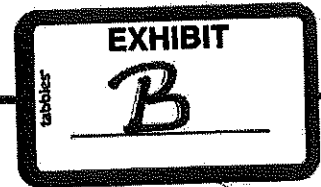
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45
46

Attest:


Brenda James, City Clerk


Thompson Kurrie, Jr., City Attorney

Greg Fender



From: Plez Joyner <PJoyner@stonecrestga.gov>
Sent: Wednesday, September 27, 2017 5:02 PM
To: Mooneyham, Marshall G.
Cc: Nathan Holman; Swinton, Lorraine; Brannon, Charlette J; Michael Harris;
dwashington@fincherdenmark.com; tom.kurrie@colemantalley.com; Greg Fender
(ghfender@windstream.net)
Subject: RE: Verify Addresses within the City of Stonecrest

Mr. Mooneyham,

WOW! I really appreciate your quick attention to this matter. Take care.

Best regards,

Plez A. Joyner
Asst. City Manager | Stonecrest, Georgia

3120 Stonecrest Blvd, Stonecrest, GA 30038
404.915.5038 (Mobile)
770.224.0202 (City Hall)
PJoyner@stonecrestga.gov

From: Mooneyham, Marshall G. [<mailto:mgrmooney@dekalbcountyga.gov>]
Sent: Wednesday, September 27, 2017 4:30 PM
To: Plez Joyner <PJoyner@stonecrestga.gov>
Cc: Nathan Holman <NHolman@stonecrestga.gov>; Swinton, Lorraine <lswinton@dekalbcountyga.gov>; Brannon, Charlette J <cjbrannon@dekalbcountyga.gov>
Subject: FW: Verify Addresses within the City of Stonecrest

Good Afternoon Mr. Joyner,

The addresses have been verified as incorporated, City of Stonecrest.

Please let me know if you need further assistance.

Thank you,

Marshall G. Mooneyham, Director
Emergency 911 Communications
DeKalb County Police Department
1960 West Exchange Place 5th Flr.
Tucker, GA 30084

Phone: 770-724-7665
Fax: 678-406-7988



September 27, 2017

Office of Secretary of State
Corporations Division
Attn: Andrea O'Toole
Documents Examination Supervisor
313 West Tower, #2 MLK Jr. Dr.
Atlanta, GA 30334

Dear Ms. O'Toole:

In accordance with the Consumer Choice for Television Act, the City of Stonecrest is providing you a copy of the City's Resolution that establishes a franchise fee rate in accordance with state law. We are also notifying the holder of the state issued franchise of the City's franchise fee rate with a copy of this letter and resolution.

If you have any questions or need additional information please contact Mr. Ryan Fender with Local Government Services, LLC at (706) 482-9933 who assist the City with these matters or me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Harris".

Michael Harris
City Manger

CC: Mr. Ryan Fender, Local Government Services
AT&T U-Verse

EXHIBIT

C

From: DANIELS, SONIA C <sd3986@att.com>
Sent: Thursday, December 28, 2017 11:09 AM
To: Plez Joyner; LADIPO, FATIMOT
Cc: Greg Fender; rgfender@windstream.net; Michael Harris
Subject: RE: AT&T Franchise Fee Payment for the City of Stonecrest

I'm sorry, but we don't have any information that can be used to estimate what the payment would be.

Sonia Daniels
External Affairs-AT&T Georgia
M: 404-791-3230

From: Plez Joyner [mailto:PJoyner@stonecrestga.gov]
Sent: Thursday, December 28, 2017 11:02 AM
To: DANIELS, SONIA C <sd3986@att.com>; LADIPO, FATIMOT <fl516a@att.com>
Cc: Greg Fender (ghfender@windstream.net) <ghfender@windstream.net>; rgfender@windstream.net; Michael Harris <MHarris@stonecrestga.gov>
Subject: RE: AT&T Franchise Fee Payment for the City of Stonecrest

Ms. Daniels,

As the city finalizes its budget, is it possible to provide an estimate on what that quarterly payment may be?

Thanks again for the update.

Best regards,

Plez A. Joyner
Asst. City Manager | Stonecrest, Georgia

3120 Stonecrest Blvd, Stonecrest, GA 30038
404.915.5038 (Mobile)
770.224.0200 (City Hall)
PJoyner@stonecrestga.gov



www.stonecrestga.gov

From: DANIELS, SONIA C [mailto:sd3986@att.com]
Sent: Thursday, December 28, 2017 10:51 AM
To: Plez Joyner <PJoyner@stonecrestga.gov>; LADIPO, FATIMOT <fl516a@att.com>
Cc: Greg Fender (ghfender@windstream.net) <ghfender@windstream.net>; rgfender@windstream.net; Michael Harris <MHarris@stonecrestga.gov>
Subject: RE: AT&T Franchise Fee Payment for the City of Stonecrest

Mr. Joyner:

Telecom fees and video fees for City of Stonecrest were set to begin billing by AT&T during the 4th quarter of 2017 (Oct. 1 or later). Payment or remittance of any fees collected are made on a quarterly basis, payable 30 days after the end of the quarter. Remittances for 4th quarter 2107 will be made Jan. 30th 2018.

If you have additional questions, feel free to contact me.

Sonia Daniels
External Affairs-AT&T Georgia
M: 404-791-3230

From: Plez Joyner [<mailto:PJoyner@stonecrestga.gov>]
Sent: Wednesday, December 27, 2017 3:11 PM
To: LADIPO, FATIMOT <fl516a@att.com>; DANIELS, SONIA C <sd3986@att.com>
Cc: Greg Fender (ghfender@windstream.net) <ghfender@windstream.net>; rgfender@windstream.net; Michael Harris <MHarris@stonecrestga.gov>
Subject: AT&T Franchise Fee Payment for the City of Stonecrest

Sonia & Fatimot,

I am reaching out to you to gain some closure on the amount and status of the franchise fee payment to the City of Stonecrest. As 2017 draws to a close, there are several accounting matters that need to be addressed and two of our unaccounted for revenue line items are the AT&T Phone and AT&T U-Verse franchise fee payments.

It appears the city has provided you with the approved ordinances, along with supporting letters/email messages establishing a franchise in the City of Stonecrest for AT&T products. I'd really like to get a response within the next 24 hours so any necessary adjustments to the city's budget can be made prior to December 31, 2017.

If you have any questions or concerns, do not hesitate to contact me on my cell phone: 404-915-5038. Thank you.

Best regards,

Plez A. Joyner
Asst. City Manager | Stonecrest, Georgia

3120 Stonecrest Blvd, Stonecrest, GA 30038
404.915.5038 (Mobile)
770.224.0200 (City Hall)
PJoyner@stonecrestga.gov





Jason Lary, Mayor

City of Stonecrest
3120 Stonecrest Blvd
Stonecrest, GA 30038
www.stonecrestga.gov



September 28, 2018

VIA EMAIL sd3986@att.com AND CERTIFIED MAIL RETURN RECEIPT REQUESTED

AT&T

Attn: Ms. Sonia Daniels

Area Manager

675 W. Peachtree

Room 36-024

Atlanta, GA 30375

Re: **Payment of Due Compensation Pursuant to Chapter 76 of Title 36 of the Official Code of Georgia Annotated as amended in 2008 by House Bill 227**

Dear Ms. Daniels:

Chapter 76 of Title 36 of the Official Code of Georgia Annotated, ("O.C.G.A.") as amended in 2008 by House Bill 227 contains provisions that require the quarterly payment of due compensation to municipalities. I am also enclosing a copy of an email from you dated December 28, 2017 in which you communicated to me the City would receive its first quarterly payment January 30, 2018. As of the date of this letter the City has not received payment.

The purpose of this letter, written pursuant to 36-76-6(b)(2) O.C.G.A., is to notify AT&T that payment for the calendar quarters ending December 31, 2017, March 31, 2018 and June 30, 2018 has not been received by the city as required by the statute. Since payments have not been received as required I am obligated by the statute to send notice to the company requesting payment 15 calendar days from the date the company receives this notice. In the event the due compensation is not remitted to the City on or before the expiration of the 15 day cure period, AT&T shall pay interest thereon at the rate of 1 percent (1%) per month to the City.

Please direct all questions to Plez Joyner, Assistant City Manager at 770-224-0200 or to Ryan Fender at 706-482-9933 who is assisting the City with this matter.

Sincerely,

Michael Harris
City Manager

CC: Plez Joyner, Assistant City Manager
Ryan Fender

sd