



City of Roswell

38 Hill Street
Roswell, Georgia 30075

Meeting Minutes - Final Mayor and City Council

Mayor Jere Wood
Council Member Nancy Diamond
Council Member Rich Dippolito
Council Member Kent Igleheart
Council Member Jerry Orleans
Council Member Betty Price
Council Member Becky Wynn

Monday, May 3, 2010

7:30 PM

City Hall

WELCOME

Present: 6 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Jerry Orleans, Council Member Betty Price, and Council Member Becky Wynn

Absent: 1 - Council Member Kent Igleheart

Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Environmental/Public Works Director Stuart Moring; Transportation Director Steve Acenbrak; Director of Community Development Alice Wakefield; Planning and Zoning Director Brad Townsend; Strategic Planning and Budgeting Director Keith Lee; Transportation Deputy Director David Low; Recreation, Parks, Historic and Cultural Affairs Assistant Director Morgan Rodgers; Water Resources Engineer Alice Champagne; Administrator of Park Services Jeff Pruitt; Recreation and Parks Special Events Coordinator Bobbie Daniels; Community Relations Manager Julie Brechbill; Building Operations Technician Doug Heieren; and City Clerk Sue Creel.

Pledge of Allegiance - Sam Evans and Boy Scouts from Troops 87 and 841

CONSENT AGENDA

1. **Approval of April 19, 2010 Council Brief Minutes.**
Administration and Finance
Approved
2. **Approval of a Resolution to enter into an agreement with the U.S. Department of the Army, Corps of Engineers, for WRDA Section 219 Grant Funding assistance for the Groundwater Production Wells Project.**
Environmental/Public Works

Approved

Enactment No: RES 2010-05-20

3. **Approval to sign a contract with Urey Contractors in the amount of \$58,208 to install fiber optic conduit through the Midtown Streetscape project to prepare for the construction of the SR9 ATMS project.**

Transportation

Approved

Approval of the Consent Agenda

A motion was made by Council Member Wynn, seconded by Council Member Orleans, to Approve the Consent Agenda. The motion carried by the following vote:

In Favor: 5

REGULAR AGENDA

Mayor's Report

Mayor Wood announced Councilmember Jerry Orleans and Police Chief Ed Williams as the winners of the Green Hair Challenge. The money raised benefits Keep Roswell Beautiful.

Mayor Wood thanked the March of Dimes for choosing Roswell for their event. Walk ReKuc, a former City Engineer, was recognized for being instrumental in bringing the March of Dimes to the City for the past 19 years. Mr. ReKuc recognized individuals who were instrumental in putting on the event and presented Mayor and Council with t-shirts. Co-Chair Bo Wagner spoke about the success of the event and thanked Mayor and Council for support from the City.

1. **Reading of a Proclamation in recognition of National Drinking Water Week, May 2-8, 2010.**

Mayor Wood read the proclamation about the importance of having an abundance of safe drinking water and that the Roswell water system has won the Georgia Association of Water Professionals (GAWP) Water Plant Gold Award for four (4) consecutive years. The Mayor called upon each citizen to help protect and practice water conservation and to get involved in local water issues.

Environmental/Public Works Director Stuart Moring stated that Drinking Water Week is a time to remember the importance of safe drinking water in Roswell and in the country. He presented a video on drinking water.

Jack Dozier with GAWP spoke about people in developing countries who do not have access to safe drinking water. He recognized Alice Champagne and Stu Moring for their work and presented them with the Gold Award.

ent.

2. **Reading of a Proclamation for May 2010 as Bike Month.**

Mayor Wood spoke about the success of the Bike Race. He read the proclamation about the benefits of bicycling. Transportation Director and current president of Bike Roswell Steve Acenbrak challenged Mayor and Council to ride their bicycles on May 17, 2010 on National Bike to Work Day and to the Public Works lunch at Roswell Area Park on May 21, 2010.

3. **Recognition of Fellowship Bible Church for the Day of Hope.**

A representative of Day of Hope thanked Mayor and Council for their support of the event and presented them with t-shirts and a plaque. He also recognized several people and churches that helped with the event. Mayor Wood thanked everyone who worked on the Day of Hope event and for helping with increasing the response to the Census.

4. **Approval of appointment to the Design Review Board.**

Mayor Wood nominated Sonya Tablada to serve on the Design Review Board.

A motion was made by Council Member Becky Wynn, seconded by Council Member Nancy Diamond, that this Item be Approved. The motion carried by the following vote:

In Favor: 5

Recreation and Parks Department - Councilmember Kent Igleheart

5. **Presentation by the Memorial Day Committee for 2010.**

Presented by Joe Glover, Director

Jeff Pruitt introduced the Committee Co-Chairperson Dave McCleary. Mr. McCleary recognized Elwyn Gaissert II, president of Roswell Rotary, and Co-Chairperson Dave Young. Mr. McCleary stated this has been a joint event with the City of Roswell and the Roswell Rotary Club for the past 13 years. He thanked Mayor and Council for their support, the Recreation and Parks Department for their help, and other sponsors of the event. He thanked the military personnel for all they do for the country and spoke about the upcoming event to be held on Memorial Day, May 31, 2010, by the Faces of War Memorial on the grounds of City Hall. A video was played of the highlights of the 2009 event.

Mayor Wood thanked everyone who helped make the Memorial Day Presentation a Roswell tradition and encouraged everyone to attend.

Transportation Department - Councilmember Rich Dippolito

6. **Recognition of Transportation Director Steve Acenbrak on his induction into Tau Beta Pi Engineering Society.**

Sam Evans recognized Transportation Director Steve Acenbrak on his induction for eminent engineer status into Tau Beta Pi, a National Engineering Honor Society. The diploma of Tau Beta Pi reads, "Being distinguished by high attainments in the engineering and scientific knowledge, you are hereby made an engineer of

eminence.” Mr. Evans thanked Mr. Acenbrak for his continued high standard of work and accomplishments for the City. Mr. Acenbrak thanked Mr. Evans for nominating him and stated that Mr. Evans, with his exceptionally high standards, has done the City a great service in his capacity as engineer, businessman, and resident.

Councilmember Dippolito thanked Mr. Acenbrak for his continued hard work.

7. **Approval to initiate the Right of Way acquisition process for three (3) parcels for the Warsaw Water Line Project in an amount not to exceed \$124,000 and approval of Budget Amendment PBA9610-05-03-10 in the amount of \$124,000.**

Presented by Steven D. Acenbrak, Director

Transportation Director Steve Acenbrak stated this item was for the Warsaw Water Line Project funded with Community Development Block Grant money from Fulton County.

A motion was made by Council Member Rich Dippolito, seconded by Council Member Becky Wynn, that this Item be Approved. The motion carried by the following vote:

In Favor: 5

Administration and Finance Department - Councilmember Jerry Orlans

8. **Approval of an Ordinance to amend Chapter 3, Alcoholic Beverages, Section 3.7.3, Restaurant, regarding seating capacity requirements for limited and full pouring alcoholic beverage licenses. (First Reading)**

City Attorney David Davidson conducted the first reading of Ordinance to Amend Chapter 3.7.3 (b), Alcoholic Beverages, of the Code of Ordinances of the City of Roswell. The Ordinance amends Chapter 3 by deleting Section 3.7.3 (b) in its entirety and substitutes a new Section 3.7.3 (b) of which the text is incorporated by reference.

Councilmember Orlans stated as discussed in Committee, the current ordinance requires a certain number of minimum seats and space for a full pouring license, and that was affecting smaller restaurants. To address this concern, staff designed a process to take the total occupancy load and require that 70% of customers be seated at tables. This would help keep the restaurant tradition in Roswell without getting into the bar side of the business.

Mayor Wood asked if any restaurants that currently have a full pouring license would be out of compliance if this 70% rule passed. Mr. Davidson answered there would be a few out of compliance. Mayor Wood asked what percentage would work to help keep them in compliance.

Councilmember Price asked that Section (b) be changed before the second reading to say, “All restaurants must..” in order to be consistent with the rest of the Ordinance. Additionally, she felt it was a problem in rendering all restaurants on Canton Street, with the exception of one, in non-compliance. She urged Council to carefully consider the ordinance, so as to not put people out of business.

Councilmember Diamond stated that at 60% some restaurants would still be out of compliance. She asked Mr. Davidson to clarify larger restaurants that do special events filling in space with tables. Mr. Davidson replied that some of the larger restaurants have banquet rooms or other areas that do not always have tables, but that counts towards the occupancy load, along with other rooms of the building. He stated that staff is currently looking into an occupancy load that counts area that customers do not occupy.

Mayor Wood urged Council to really consider this ordinance, make it more realistic and look at its intent.

Councilmember Diamond stated that according to the Fire Marshall, some restaurants will have fire code problems with additional seating.

Councilmember Orlans stated that because there are too many questions and concerns, he suggested deferring it until staff can figure out how this will work for all restaurants.

Motion: Councilmember Orlans moved to defer the first reading of the Ordinance to Amend Chapter 3, Alcoholic Beverages, Section 3.7.3., Restaurant, regarding seating capacity requirements for full and limited pouring alcoholic beverage licenses. Councilmember Dippolito seconded the motion.

Councilmember Price expressed concern of deferring this item for businesses trying to open, as this had been deferred a number of times in committee. Councilmember Orlans responded that it could be postponed for one (1) month.

Councilmember Wynn suggested approving the first reading of the Ordinance so it can move forward, and staff can work on it before the second reading.

New Motion: Councilmember Orlans moved to approve the first reading of the ordinance to Amend Chapter 3, Alcoholic Beverages, Section 3.7.3, Restaurant, regarding seating capacity requirements for full and limited pouring alcoholic beverage license and to have all concerns addressed prior to the second reading. Councilmember Dippolito seconded the new motion.

1st Amendment to New Motion: Councilmember Price moved to insert the words "All restaurants must" at the beginning of section (b) so it is consistent with section (a). Councilmember Dippolito seconded the 1st amendment to the new motion. The motion passed unanimously.

2nd Amendment to new motion: Councilmember Price moved to have the percentage changed to 60%. Councilmember Diamond seconded the motion. The motion for the 2nd amendment to the new motion failed 2-3. Councilmember Price and Councilmember Diamond in favor of the amendment; Councilmember Orlans, Councilmember Dippolito and Councilmember Wynn voted against the motion for the 2nd amendment.

Councilmember Dippolito suggested that staff look at calculating bar area vs. tables.

Mayor Wood clarified that the motion was to approve the first reading of the Ordinance at 70% and for it to come back to Council in 30 days.

A motion was made by Council Member Jerry Orlans, seconded by Council Member Rich Dippolito, that this Item be Approved on First Reading and placed on the Mayor and City Council agenda for 5/17/2010. The motion carried by

the following vote:

In Favor: 5

9. **Approval of an Ordinance to amend Chapter 13, Offenses and Miscellaneous Provisions, of the City of Roswell Code of Ordinances. (First Reading)**

City Attorney David Davidson conducted the first reading of Ordinance to Amend Chapter 13, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of Roswell regarding Open Containers. The Ordinance amends Chapter 13 by adding a new subsection 13.1.4 "Open containers," to read as shown in Exhibit 'A' attached to the Ordinance and incorporated by reference.

Mayor Wood asked for a summary of how the Ordinance would change the current laws. Mr. Davidson replied it would make it illegal to carry an open container on any street, any sidewalk, any right-of-way or public or semi-public parking area within the City of Roswell. Mayor Wood asked for clarification of a semi-public parking area. Mr. Davidson replied the definition states, "It includes any privately owned area, wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial establishment, office building, church, school, or multiple family residential building." Mayor Wood asked if it would include a resident's private parking area. Mr. Davidson replied no, not a driveway.

Councilmember Orlans asked for a memo before the second reading from the Legal Division/staff on how permits will be handled, how it will operate, and if it would have to be a closed area for someone to have a special event that would allow containers. He expressed concern on how "Live after Five" will be handled.

Councilmember Price asked about events like Cinco de Mayo held in a parking lot serving alcohol beverages, and if this Ordinance would ban such an event. Mr. Davidson replied that would fall under the special event permit.

A motion was made by Council Member Jerry Orlans, seconded by Council Member Nancy Diamond, that this Item be Approved on First Reading and placed on the Mayor and City Council agenda for 5/17/2010. The motion carried by the following vote: Council Member Orlans, Council Member Wynn, Council Member Dippolito, and Council Member Diamond voted in favor of the motion. Council Member Price abstained.

In Favor: 4

Abstain: 1

Community Development - Councilmember Betty Price

10. **SC10-01, Sidewalk Cafe License, Roux on Canton, 946 Canton Street**

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Brad Townsend stated this is a proposed sidewalk café license for Roux on Canton located on Canton Street next to the proposed INC Restaurant. The proposal is for six tables with barriers placed on the south and north sides as well as a table placed on top of the flat stone area. This maintains the

handicapped area coming down the ramp from the north into the restaurant. Mr. Townsend noted there were four staff recommended conditions, and that staff recommended approval. He noted that staff is requiring sidewalk cafes provide two chains to meet ADA requirements. He showed Mayor and Council drawings of the proposal.

Mayor Wood expressed concern about the safety of the elevation of the flagstone. Mr. Townsend replied it had been utilized this way in the past, and staff did not believe there was cause for concern.

Councilmember Dippolito asked if the 18-inch step met code. Mr. Townsend replied that he would check.

Councilmember Orleans asked if INC Restaurant was removing the flagstone and about the grassy open area. Mr. Townsend answered yes saying their phase 2 approval showed removal of the flagstone. He stated that Roux on Canton had already replaced the grass with flagstone. The INC approval is going to remove the existing area of flagstone and lower it to the same level as this location where tables will be placed. Councilmember Orleans agreed with the Mayor's concern of the extra step.

City Attorney David Davidson clarified that the only thing for Council's approval is the license for the sidewalk café to be on the sidewalk, and not for any of the permits. He noted they would still need to meet code, and the building official would allow or not allow something to be put out.

Councilmember Price asked if the applicant had agreed to the three conditions. Mr. Townsend answered yes.

A motion was made by Council Member Betty Price, seconded by Council Member Nancy Diamond, that this item be approved with the staff recommended conditions and with the understanding that this approval does not exempt the sidewalk cafe from meeting building codes and not approval of any specific arrangement of tables. The motion carried by the following vote:

In Favor: 5

11.

SC10-02, Sidewalk Cafe License, Street Kitchen, 982 Canton Street, Street Cafes, Inc./Kellie Clark.

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Brad Townsend stated this is a proposed sidewalk café license located on Canton Street at the end of Norcross Street in a building constructed two to three years ago. Staff is trying to maintain a 5-foot pathway to meet ADA requirements from the two light standards located at either end of the location. Mr. Townsend displayed and explained staff recommended graphics. He noted the applicant had chosen to take over the sidewalk on a couple of occasions between the lampposts and the location of the sign on the property. Staff recommended four conditions for this proposal. As mentioned by the City Attorney, the applicant would still have to meet all permitting requirements and land disturbance permit requirements for this location.

Councilmember Dippolito asked if a sketch was provided by the applicant, and the difference between what the applicant provided and what staff recommended. Mr. Townsend replied the one provided by staff is an updated version. Councilmember

Dippolito asked if the applicant had agreed to staff's recommendation. Mr. Townsend replied the applicant had concerns as to why to add the extra brick on either end. He stated that staff was trying to keep it at least 15-feet from one property line and 10-feet from the other. He noted the brick could be removed from those locations, as there was no purpose for it at those points.

Applicant: Rick Clark stated that his concern was primarily about adding the 2-feet of brick, which is currently under review for an improvement from the existing sidewalk to the building. There will be a new survey coming showing where the original pin was set a foot into the sidewalk on the north end. He was concerned that this will delay the opening of the café. He asked to be able to utilize what the other businesses on Canton Street have with the widest sidewalk area with the exception of the two lampposts. Mr. Clark said there are thirteen other spots along Canton Street with similar clearances between the lampposts and the edge of the sidewalk of 3-feet.

Mayor Wood said that staff is recommending long-term that applicant add an additional 2-feet to the sidewalk, and a minimum of 5-feet between the applicant's chain and the lamppost. He asked if Mr. Clark was asking for permission on an interim basis to use the current sidewalk before adding the additional 2-feet. Mr. Clark answered yes. Mr. Clark confirmed for the Mayor that they wanted permission to use the City sidewalk now but only for a limited time to give them time to add the additional 2-feet, and then they would move back to the original plan with the exception of the 2-feet on either side beyond the seating. Mr. Clark stated that his interim request was to either let it come to the ADA or the Ordinance and ADA compliance of 36-inches between the lamppost and the chain at those two particular junctions.

Councilmember Orlans asked for clarification regarding the 2-feet. Mr. Clark explained the current sidewalk is 8-feet 9-inches wide with an additional 4-feet plus a 6-inch curb. He said the café is far enough away from the street. There are two (2) lampposts in the midst of this, and staff is trying to comply with the 5-foot free walk. Mr. Clark stated there is a 3-foot compliance distance between what is proposed and the chain. Staff has requested an additional 2-foot of brick to the existing sidewalk running parallel with their property line. Mr. Clark stated he is in agreement with the long-term agreement and felt everything can be completed within six months.

Councilmember Price asked if there would be two rows of tables after the interim period. Mr. Clark replied yes.

Councilmember Wynn, noting that the City had made a policy of 5-feet as being ADA compliant, asked what part did not meet the 5-feet. Mr. Townsend stated he was concerned about the dimensions of the turning radius around the lampposts. Councilmember Wynn asked if the applicant was able to show a turning radius of 5-feet, would it be necessary for them to add the other brick. Mr. Townsend replied that would be phase 2, which will get the applicant more brick. Councilmember Wynn stated her understanding from the applicant was he wanted to add enough for two rows of outside seating.

Mr. Townsend clarified the difference between the two plans is the applicant proposes to push 2-feet onto the existing sidewalk; staff is trying to push him 2-feet into his property. Councilmember Wynn asked if phase 2 is done with the brick and keeps the yellow part of the drawing, if there was a way to modify around the lampposts to get the turning radius to be ADA compliant.

Mayor Wood asked if Council approved using the sidewalk, as long as the applicant

left a 5-foot clearance including a 5-foot radius around the lampposts, if that would be compliant with the City's policy. Mr. Townsend replied yes.

Councilmember Orlans and Councilmember Price questioned the design as regards to the alcohol beverage ordinance. City Attorney Davidson replied that everything would be required to be inside the premises, which is inside the barrier.

Mr. Clark confirmed for Councilmember Dippolito that his preference would be that the plan shown, Exhibit A, be their sidewalk license, and their other improvements be dealt with later. He also confirmed for Councilmember Orlans that serving would be done from within their chained area on the premises.

Mayor Wood encouraged the applicant to proceed with adding the 2-feet of sidewalk.

A motion was made by Council Member Betty Price, seconded by Council Member Becky Wynn, that this item be approved as depicted in Exhibit "A" along with staff recommended conditions with the exception of condition #1, which will be replaced with Exhibit "A.". The motion carried by the following vote:

In Favor: 5

Environmental / Public Works Department - Councilmember Becky Wynn

12.

Approval for the Mayor and/or City Administrator to sign a contract with T.J. Lyle and Company, Inc. in the amount of \$373,502.53 for the construction of the water lines along Warsaw Road and Elaine Drive and approval of Budget Amendment 440C-05-03-10 in the amount of \$96,000.

Presented by Stuart Moring, Director

Environmental/Public Works Director Stuart Moring stated this is a 12-inch replacement water line on Warsaw Road. He noted that earlier on the agenda, Council approved the acquisition of easements to facilitate this project. He stated that this project is in the CDBG service area, and the available CDBG funds will be applied to the project. This was bid together with the waterline along Elaine Drive, which is an old line, and staff is proposing a single project in which to complete both. Available funding for Elaine Drive was more than needed, and staff proposes the Budget Amendment of \$96,000 to transfer to the Warsaw Road project. Mr. Moring explained that staff had to by-pass the committee meeting for this approval because this is CDBG Funding from Fulton County, and they are under a tight timeframe to have the money spent by June.

Councilmember Dippolito asked if the 8-inch waterline going down Elaine Drive is residential area only. Mr. Moring replied yes. Councilmember Dippolito asked if a 12-inch waterline would be adequate for potential redevelopment of that area. Mr. Moring replied the 12-inch would accommodate redevelopment activity in the general area, and the line proposed along Sway Branch connecting into Market Place will create a loop between Warsaw and Grimes Bridge and greatly improve available water.

Councilmember Wynn noted this would also improve water pressure for fire hydrants in the area.

A motion was made by Council Member Becky Wynn, seconded by Council Member Rich Dippolito, that this Item be Approved. The motion carried by the following vote:

In Favor: 5

City Attorney's Report

13. **Recommendation for closure to discuss personnel and acquisition of real estate.**

A motion was made by Council Member Becky Wynn, seconded by Council Member Nancy Diamond, that this Item be Approved. The motion carried by the following vote:

In Favor: 5

Adjournment

After no further business, the Regular Meeting adjourned at 9:28 p.m. Mayor Wood noted that the planned Budget Work Session had been postponed to May 10, 2010.