



# City of Roswell

38 Hill Street  
Roswell, Georgia 30075

## Meeting Minutes Mayor and City Council

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

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Monday, February 24, 2014

7:00 PM

City Hall

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### WELCOME

**Present:** 7 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Kent Igleheart, Council Member Jerry Orlans, Council Member Betty Price, and Council Member Becky Wynn

*Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Deputy Police Chief James Easterwood; Environmental/Public Works Director Stu Moring; Environmental/Public Works Deputy Director Mark Wolff; Finance Director Keith Lee; Budget Manager Ryan Luckett; Accounting Manager Wendy Johnson; Contract Manager Corey Salley; Budget Analyst Lynn Williams; Transportation Director Steve Acenbrak; Land Development Manager Clyde Stricklin; Community Development Director Alice Wakefield; Planning and Zoning Director Brad Townsend; City Planner Jackie Deibel; Mayor's Special Projects Coordinator Jennie Bushey; Community Relations Manager Julie Brechbill; Community Relations Digital Media Designer Joel Vazquez; Building Operations Technician Tim Thompson; Deputy City Clerk Betsy Branch.*

### Pledge of Allegiance - Fulton Science Academy Robotics Champions

*Fulton Science Academy Robotics Champions; Techno Pandas. Mayor Wood announced that the students from the Fulton Science Academy (FSA) won the State Science Robotics Championship and would be going to St. Louis, Missouri for the national championship. The Mayor asked for a brief description from one of the presenters.*

*Priya Soneji, representing the Fulton Science Academy Elementary School Team Techno Pandas, stated this year's theme is Nature's Fury. Ms. Soneji explained that the team identified a problem found in nature, tornados; the team determined that public sirens cannot always be heard in every home to alert citizens of an approaching tornado. She explained that the FSA Techno Pandas came up with a solution to solve the problem by bringing the city sirens closer through the use of a small device which can be strapped onto a lamp post. It is basically a mini-siren which will have speakers for sound and a device to receive the signal from a 911 Center. Ms. Soneji said, "This will help people in their homes to be warned of bad weather heading their way. People can go their safe spot to be safe during a tornado or a disastrous situation."*

*Mayor Wood said he understood that the FSA Techno Panda Team worked with the Roswell Fire Department to develop this idea and to make this presentation. Ms. Soneji stated the students worked with Mr. Paul Piccirilli of the Roswell Fire Department, and Mr. Ed Wise of Signs for Cities; both gentlemen provided a lot of information, and the Techno Pandas appreciated their help. Mayor Wood congratulated the Fulton Science Academy Techno Pandas for their accomplishments. The Techno Pandas had their pictures taken with the Mayor and City Council.*

## **CONSENT AGENDA**

1. **Approval of the February 10, 2014 Mayor and Council Meeting Brief.**  
*Administration*  
**Approved**
  
2. **Approval of City Sponsorship for the Judson Collegiate Invitational (JCI) from June 26, 2014 to June 30, 2014 and approval of Budget Amendment 10061701-02-24-14 allocating \$2,700 in FY 2014 General Fund Operating Contingency.**  
*Community Development*  

*The JCI Foundation is requesting sponsorship for their 3rd annual Judson Collegiate Invitational. This event is usually held in July but because of construction upgrades to the golf facility the date for this event has moved to June 26 through June 30, 2014. Because the construction schedule was released after the sponsorship deadline for events held between January 2014 and June 2014, this sponsorship application was submitted after the deadline.*

**Approved**
  
3. **Approval to purchase a vehicle for the Narcotics Unit in an amount not to exceed \$31,542.**  
*Public Safety*  

*This is to purchase a vehicle for the Narcotics Unit from the Confiscated Asset Fund in an amount not to exceed \$31,542 including equipment. This new vehicle is needed due to the addition of a narcotics agent to the Narcotics Unit in March, 2014.*

**Approved**
  
4. **Approval for the Mayor and/or City Administrator to submit a Georgia Department of Transportation (GDOT) Local Administered Project (LAP) Re-Certification.**  
*Transportation*  

*The City of Roswell must reapply to be approved for LAP certification. This ensures to GDOT that local governments can manage, administer and execute the policies and procedures for Federal and State compliance in order to receive Federal funding. Roswell was originally certified in 2010 for a three year period which ended in 2013. The re-certification is valid for one year.*

Approved

**5. Approval for the Mayor and/or City Administrator to sign a Georgia Department of Transportation (GDOT) Indemnity Agreement for one (1) new MARTA Bus Shelter.**

**Transportation**

*As part of the GDOT approval process for installing the new Bus Shelter on SR 140/Holcomb Bridge Road west of Dogwood Road in the westbound direction, there is a required GDOT Indemnity Agreement. The bus stop improvements will be owned and maintained by the City of Roswell; however, they are located in GDOT's right-of-way.*

*In summary, the Indemnity Agreement states:*

- 1. The City agrees to indemnify GDOT from all lawsuits, actions, claims arising during construction or maintenance of the bus stops.*
- 2. The City is responsible for maintenance.*
- 3. The City will make any repairs if any damage is caused by GDOT.*
- 4. GDOT can terminate the Agreement at any time with 30 days written notice.*
- 5. GDOT can require City to relocate or remove bus stop improvements at City's expense.*

**Approved**

**Approval of the Consent Agenda**

*Council Comments:*

*Councilmember Price stated she had a correction to item number one. She asked if there would be a more lengthy copy that Council would vote on. Mayor Wood noted that Consent Agenda Item #1 was just the brief and was not the full record. Councilmember Price stated the abstention was not named on Item #7. Mayor Wood stated it would be named on the full record.*

*Councilmember Price, referring to Consent Item #4, said she noticed that the deadline had been missed; she asked if that would present a problem. Mayor Wood asked City Administrator Kay Love to respond. Ms. Love explained that Transportation Director Steve Acenbrak had been in touch with GDOT regarding that date and it is fine; GDOT is aware that it is on the agenda this evening for approval. Councilmember Price thanked Ms. Love.*

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

**In Favor: 6**

**Introduction of Boy Scouts in attendance**

*Mayor Wood welcomed and recognized the Boy Scouts who were in attendance, asking them to come forward and quickly introduce themselves.*

*The following scouts came forward to the podium, stated their name, troop number, and the badge they were working on:*

*Luis Jimenez, Troop 7153; working on his Citizenship in the Community Merit Badge.*

*Jordan Minden, Troop 629; working on his Communications Merit Badge.  
Jeff William; Troop 87; working on his Citizenship in the Community Merit Badge.  
Andrew Becker, Troop 87; working on his Citizenship in the Community Merit Badge.  
Brandon Crow; Troop 87; working on his Citizenship in the Community Merit Badge.  
David Gonzalez; Troop 87; working on Communications Merit Badge.*

*Mayor Wood noted that Councilmember Dippolito was a life Scout; Councilmember Orlans was a life Scout; Councilmember Price is the mother of an Eagle Scout.  
Mayor Wood is an Eagle Scout with Troop #87.*

## **REGULAR AGENDA**

### **Mayor's Report**

**1. Approval of Planning Commission, Design Review Board, and the Downtown Development Authority reappointments.**

*Mayor Wood stated this item was the nomination for Sydney Dodd for the Planning Commission (3-year term); Tom Flowers for the Planning Commission (3-year term); and Ralph Mills for the Downtown Development Authority (4-year term).*

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

**In Favor: 6**

### **Administration and Finance Department - Councilmember Kent Igleheart**

**2. Approval of the selection method for the Roswell Municipal Court Judge.**

*Presented by Michael Fischer, Deputy City Administrator*

*Councilmember Igleheart introduced this item. Deputy City Administrator Michael Fischer presented the item and stated this is the Council decision for the selection method to fill the vacant position for the Roswell Municipal Court Judge. Council has discussed two options in the past. One option is to have the Chief Municipal Judge of Roswell elected; the other option is to have the Chief Municipal Judge of Roswell to be appointed. Mr. Fischer explained that should Council decide on the election method, that election would be held on May 20, 2014, as part of the State General Election. If Council decided upon the election method, the advertisement would go out immediately to announce that election and to announce the qualifying. Qualifying would be the week of March 3 through March 7, 2014 because of the requirement to get the ballot question to Fulton County on the deadline of March 12, 2014. The City of Roswell would enter into a contract after that with Fulton County. Fulton County manages the election, the polls, and the process. Mr. Fischer stated, "Should you decide tonight to appoint a Chief Municipal Judge you can make that decision tonight with the authority that you have from state law O.C.G.A. 36-32-2. In order to do that tonight you just need to make the decision. If you want to appoint, there is a motion that can be made that would basically have the judges that we are currently using to be continued to be used, under your authority to appoint. We would then work through the process that we discussed through the committee meeting to work through the interview process, the identification process for any qualified candidates that you may want to appoint one. So, tonight, what we are looking for is that final*

*decision on what the process would be; how we need to proceed in filling the Chief Judge position."*

*Mayor Wood stated he would take any Council questions before entertaining a motion.*

*Mayor Wood said, "As I understand it, the Council needs to make a decision tonight to either go one way with the election of a judge or the other with an appointment." Mr. Fischer stated that was correct.*

*Council comments:*

*Councilmember Price stated, "There was something in the packet that says a decision is necessary this evening. There really isn't a decision that is necessary because we called for an election in the fall. If we do nothing, we will have an election. Is that correct?" Mr. Fischer stated that is correct. Councilmember Price replied, "So why is there a decision necessary tonight?" Mr. Fischer replied, "Because of the amount of discussion that we have had in the past from some of the other Councilmembers to look into whether or not we want to try to appoint. We called the election when we did to meet some deadlines, but since that time there has been discussion on whether or not to appoint. We need to have your decision tonight."*

*Mayor Wood stated, "Let me rephrase the question for Councilmember Price. If no motion is passed tonight, do we need a motion to move forward with the election with Fulton County?" Mr. Fischer replied, "No sir." Mayor Wood asked, "Is that automatic?" Mr. Fischer replied, "It is right now because we have called for the election." Mayor Wood replied, "So if there is no motion passed tonight, then there will be an election May 20, 2014, qualifying will be March 3 through March 7. That would be if no motion is passed; March 3rd we will have qualifying." Mr. Fischer stated that is correct.*

*Mayor Wood stated Councilmember Price is correct.*

*Councilmember Price replied, "I appreciate you rephrasing my question but I think it was adequate. In our packet it says it is necessary to make a determination tonight. There is no necessity to do anything. We are on track for an election."*

*Mayor Wood replied, "If no motion is passed tonight, that is accurate; if there is no motion to do an appointment."*

*The Mayor called for any other questions. The Mayor called for any motions.*

*Councilmember Igleheart stated, "This has been one of the most vexing questions we face in Roswell for a long time. I can actually understand and agree with both sides. I think there has obviously been a lot of information presented to us about an appointment. I am concerned about some of what looks like bias towards appointment; however it is probably likely that we would get a better qualified judge if we did appoint. But frankly, you could probably say that about Mayor and Council that we could probably do the same, but we don't. I also heard from more Roswell residents about this issue than probably any other issue that I can remember in a long time on Council. One hundred percent almost have been for retaining an elected judge. They are either very proud to be the only city in Georgia that does that or they just don't think we should take away the votes. I personally could go either way. I know that most of you know I have no problem taking a stand but when I am not certain on one thing I am willing to follow what I think most constituents have told me that they want. I will not be making a motion tonight, which I think does default to*

*the election moving forward. If anybody else wants to make a motion, I have a copy of what I was provided, for the other way."*

*Mayor Wood called for any motions from the floor.*

*Motion: Councilmember Orlans moved to declare that the City of Roswell is changing to a system of appointing Judge pursuant to State law, specifically 36-32-2, because we believe that such a system is in the best interest of the City; therefore, we hereby we rescind the call for a Special Election on May 20, 2014, to fill the office of Chief Judge of the Municipal Court of the City of Roswell which we made September 28, 2013. Further, pursuant to O.C.G.A. 36-32-2, we hereby appoint the stand-by judges we previously appointed on August 26, 2013 and October 14, 2013, to continue to serve as stand-by judges at the pleasure of the Mayor and Council. These Judges are Richard Hicks; Barry Zimmerman; Brian Hansford; Don Schaefer; Mazi Mazloom; Roy Roberts; Melinda Davis Taylor; Roger J. Rozen; Nathan Wade; Claude D. Mason; Chung H. Lee; Darrell R. Caudill, Jr.; Jonathan Granade. Further, I move that Mayor and Council hereby direct staff to develop and present to the Administration Committee proposed methods to select and appoint a Chief Judge and any charter change staff may recommend to conform the city charter to state law and to an appointed system. Councilmember Wynn seconded the motion.*

*Mayor Wood stated he would entertain Council comments before Public discussion was opened.*

*Mayor Wood stated he would make his comments; he said, "I am probably the only sitting Council member who has actually practiced in the Municipal Court of the City of Roswell. In fact, I am certain I am. As a practicing lawyer before I was mayor I used to practice in that court. I am also the only one sitting up here who has run for judge for the City of Roswell. I will have to tell you I was not successful in that race, Maurice Hilliard was and he has done a great job as our judge. I have talked to a lot of people about this subject. I have not received any calls as some of the Council members have asking that we retain the elected position. I made my calls to practicing attorneys and asked them for their opinion on which method would probably lead to the best qualified judge, not in every case, but is most likely to get a good qualified judge or judges to hear your case, recognizing that we want someone who is honest, who is capable, and who will render a fair decision. Of the practicing attorneys that I spoke with, their recommendation is that we go with an appointed judge. For that reason, and because I have not heard from citizens asking that we retain the elected position, if it came to a tie, I would be voting for the appointed judge."*

*Council comments:*

*Councilmember Price stated she had not been in favor of this mainly because "it really didn't come from anyone on Council." She said, "There has been a huge advocacy movement to get us to this point, including citing cases that really weren't pertinent and the sense that the electorate can't be trusted to elect the proper person. It is possible that they made the right choice a few years back when they elected a different judge Mr. Mayor but I wouldn't be presuming to insult you in that fashion. However, I think there are good reasons to retain our current system, one of which being that it is in our charter, that I was sworn to uphold. I know there is a state law saying that we can appoint regardless of our charter, however that is not a mandate that we must, and I know that some of the advocacy persons have been suggesting that we have been operating illegally, and that is certainly not the case. I will not be in favor of altering our current method of electing judges, and I trust the electorate to put the proper person in place."*

Councilmember Orlans stated, "As Councilmember Igleheart said, there has been a lot of discussion on this, a lot of input from different people. I've talked to a lot of attorneys as well; tried to talk to people that were practicing in our courts. I think all we are trying to do is get to a more efficient and professional court system to operate for our citizens. I just feel that going forward following state law, the appointment method will be a better method for us to go forward with."

No further Council comments.

Public comments:

Janet Russell, stated she has been in Roswell for 41 years. The judge has always been elected during that time. Ms. Russell said she agreed with Councilmember Price regarding the charter. Ms. Russell said she was concerned about several things regarding appointment. She said, "I am really concerned about a separation of powers here. We have it at the federal level, the state level, we need to keep it at the city level. I don't really want a judge who is appointed and if you don't like what he decides, you just get rid of him." She said she did not care what attorneys think who live outside of the City of Roswell. Ms. Russell said, "We are the only city left in the state of Georgia with an elected judge."

Lee Fleck, Martins Landing, said he supports the current method of selecting municipal judge, as currently stated in the City Charter that each Councilmember swore to uphold prior to taking office. Mr. Fleck said, "There is one very rational reason to continue to electing our municipal judge, that is currently, according to the City Charter, there exists a functional separation of powers with a separate judiciary and an elected judge beholden to the electorate and not to the Mayor and Council with which the power to dismiss would afford the Mayor and Council defacto power to control both the executive and the judicial powers wielded by Roswell." He said an elected judge would be to serve all the citizens of Roswell and is a means of protecting citizens from any "attempted abuses of this Council, this administration, the Roswell Police Department, while enforcing local and state laws." Mr. Fleck said he would "provide the perfect example of one such abused individual this city made into a folk hero that made Roswell a source of ridicule in the national media." He commented on the City's first attempt at rewriting a chicken ordinance "to try to grandfather in Mr. Wordes into the second ordinance; the elected judge basically advised Roswell's now famous chicken man to ignore your efforts." Mr. Fleck said, "You remember the elected judge that advised the City of Roswell that any continued harassment in your criminal court would obligate the City to pay to provide Andrew legal services of his choice. Mr. Davidson, you remember when your assistant Bob Hurley filed, what was it, a nuisance property civil suit, against Andrew, to keep the city from having to pay his legal fees in the civil court of law. I might suggest that by appointing a judge, there is an excellent likelihood to avoid such a recurrence in the future by a judge who would be serving at the pleasure of you all and not at the pleasure of the electorate. The chicken man was not allowed the opportunity to appear in bankruptcy court to defend himself while in Roswell's jail. That a legal expert attested to his wrongful foreclosure, resulting from the City's administrative harassment that eventually resulted in his violently taking his life. Please don't try to justify the fact that Roswell's folk hero was incarcerated for failing to complete his community service because at the same time Andrew Wordes was in jail, the City was allowing illegal aliens to pay a local minister to falsify community service documents to satisfy court orders. For your information, it is estimated that those illegal activities, some of which occurred within the physical confines of Roswell Police Department facilities; (inaudible) hundreds of thousands of dollars before he voluntarily deported himself because he too was in the United States illegally. I wish to advise you all that considering this motion is not going to clear your conscience, and in fact, it is an abomination by a Council that is so arrogant to believe that it knows better than all the previous Councils that came before them and those who

*established the foundation of this city with the existing City Charter. I am sorry to tell you but your recent decisions verify that you all aren't really that wise. And finally my opinion, Andrew Wordes is still on your hands, and you best believe that our lives here on this earth is all that there is. Thank you."*

*No other public comments were made.*

*Mayor Wood stated, "Just for the record, Andrew Wordes was a friend of mine. Andrew Wordes was incarcerated by the Roswell Municipal Court Judge, not by the City of Roswell. This City, in the event of an appointment of a judge, will be going to a term so they will not be removed at the will of this Council. I think folks that talk about separation of the courts and the legislature forget that this City Council is governed not by the Municipal Court Judge but by the Superior Court Judge of Fulton County. Our laws are not reviewed by our judge but by the Superior Court ultimately. That Superior Court will remain elected by you and remain independent. I don't buy the arguments that are made here. I do believe it is a fair judgment to go one way or the other but to accuse this Council of the things they have been accused of are to ignore the role of the Municipal Court Judge versus the Superior Court Judge, to ignore the way the system works, so I would have to disagree with them."*

*Mayor Wood noted that a motion and second were on the table. He called for any further Council questions or further discussion.*

*Council comments:*

*Councilmember Price asked if it is true that state law supersedes Roswell's Municipal Charter.*

*At the request of the Mayor, City Attorney David Davidson responded to Councilmember Price's question and confirmed that is correct. Councilmember Price replied, "So, in the state law, in the motion that Councilmember Orlans just read, it is my understanding that in 36-32-2, it states that an appointed judge would serve at the pleasure of the municipal body. So, no matter what we put into our charter, this would supersede that so it would still be at the will, at our pleasure, is that not right." City Attorney David Davidson replied, "Under the state law, he would serve at the pleasure of the governing authority; that is correct." Councilmember Price replied, "So even if we said that we are going to give him a term or only remove him with cause or what have you, we still have the authority under state law to remove him when we feel like it. Does anyone dispute that?" Mayor Wood replied, "He would have a contract with the City of Roswell. We could remove him when we felt he was not doing his job, I would presume. Mr. Davidson would have to give you the final answer. We have a City Solicitor that we have a contract with right now; we cannot dismiss her at will. I would assume we would have a similar agreement with our Municipal Court Judge or Judges that we could not dismiss them at will." Councilmember Price replied that state law says it could be done. City Attorney David Davidson stated, "It says it is at the discretion, and they serve at the pleasure of the governing authority. If you decide to enact an ordinance to appoint them to a year term, then that is your pleasure; you could do that if you wanted. You could say they serve just simply at your pleasure and they do not get a term. It is going to be up to this Council to decide that. It is not something that I can answer at this time until you all decide." Councilmember Price replied, "In our current Charter, do we not have a mechanism to remove an underperforming judge?" City Attorney David Davidson said he doubted that the word "underperforming" was included in the Charter. Councilmember Price agreed that the Charter did not include the word "underperforming." She said "If there was a problem with a judge even though he is elected, this Council can remove a judge for cause." Mr. Davidson replied, "For cause. Yes ma'am." Councilmember Price replied, "So, we do have a mechanism for making sure we have a judge who is acceptable." Mr. Davidson replied, "Yes,*



*ma'am."*

*Councilmember Dippolito stated, "I just want a clarification on that. So, under both an elected or appointed position, Council has the right to remove the judge." Mr. Davidson clarified, "Under elected, you could only remove for cause. Under the state law the judge serves at your pleasure. If you decide that you want to make it a year term, where he could only be removed for cause, you could do that. That would be your pleasure; it would be by ordinance how you did that."*

*Councilmember Dippolito thanked Mr. Davidson. No further questions.*

*Mayor Wood called for further Council questions or discussion; there was no further discussion.*

*Mayor Wood called for the vote.*

**Councilmember Orlans moved to declare that the City of Roswell is changing to a system of appointment Judge pursuant to State law, specifically 36-32-2, because we believe that such a system is in the best interest of the City; therefore, we hereby rescind the call for a Special Election on May 20, 2014 to fill the office of Chief Judge of the Municipal Court of the City of Roswell which we made September 28, 2013. Further, pursuant to O.C.G.A. 36-32-2, we hereby appoint the stand-by judges we previously appointed on August 26, 2013 and October 14, 2013, to continue to serve as stand-by judges at the pleasure of the Mayor and Council. These Judges are: Richard Hicks; Barry Zimmerman; Brian Hansford; Don Schaefer; Mazi Mazloom; Roy Roberts; Melinda Davis Taylor; Roger J. Rozen; Nathan Wade; Claude D. Mason; Chung H. Lee; Darrell R. Caudill, Jr.; Jonathan Granade. Further, I move that Mayor & Council hereby direct staff to develop and present to the Administration Committee proposed methods to select and appoint a Chief Judge and any charter change staff may recommend to conform the city charter to state law and to an appointed system. Councilmember Wynn seconded.**

**Councilmember Orlans and Councilmember Wynn voted in favor. Councilmember Diamond, Councilmember Dippolito, Councilmember Price, and Councilmember Igleheart were opposed.**

**The motion carried by the following vote:**

**In Favor: 2**

**Opposed: 4**

**3. Recognition of the City of Roswell receiving the Distinguished Budget Presentation Award for the FY13 budget from the Government Finance Officers Association (GFOA).**

***Presented by Keith Lee, Finance Director***

*Councilmember Igleheart introduced this item. Director of Finance Keith Lee stated this particular award is a significant achievement for the City. It reflects the highest of commitment to government budgeting; it is an indication that our budget document is proficient as a policy document as a financial plan, as an operational guide, as a communications device. Mr. Lee stated, "It would not be possible to achieve this award without the leadership of Mayor and Council, without the guidance of the City Administrator Kay Love, without staff's commitment to excellence, or without having the best budget team east of the Pacific Ocean." Mr. Lee expressed appreciation to*

Ryan Lockett and Lynn Williams who were in attendance at the meeting. Mayor Wood said, "Let's give those folks a hand for doing a great budget. Just to add to that award, that budget, and these other awards that we are receiving, that this City has held the AAA Bond Rating for almost 15 years now. It was many years that Roswell was the only city to maintain that AAA Bond Rating. After learning from us, Alpharetta achieved that a few years ago. We continue to receive that and I believe we have the best budget team and the best controls over budget of any city in the state of Georgia, as indicated by this award but even more important by that AAA Bond Rating. Good job." Mr. Lee agreed and thanked Mayor Wood for his comments.

Council comments:

Councilmember Dippolito commented that over the last two years he had the pleasure of being the Administration and Finance liaison to Council and had gotten to know Keith Lee and his team extremely well. Councilmember Dippolito expressed his appreciation to the budget team for the fantastic job they do. He said, "This award is evidence of it, but the excellent shape that the City is in is also evidence of what you do day in and day out. Thank you all very much." Mr. Lee thanked Councilmember Dippolito.

**Recognized**

**4. Presentation of the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting for the FY2012 Comprehensive Annual Finance Report (CAFR).  
Presented by Keith Lee, Finance Director**

Director of Finance Keith Lee said this is the highest form of recognition in Government Accounting and Reporting. It is a significant accomplishment by the Mayor and Council, management of the City, as well as staff. This award is judged by an impartial panel and as it indicates, we have a commitment to the full disclosure of our financial picture in our plan. Mr. Lee stated it is made possible by Mayor and Council, along with City Administrator Kay Love's guidance that allows the City to achieve this award, and staff's commitment to excellence in putting together the annual Comprehensive Annual Finance Report (CAFR). Mr. Lee expressed his appreciation to his accounting staff and recognized Accounting Manager Wendy Johnson, in attendance at this meeting; the remainder of her staff is Georgette McCray and Jackie Wolo. Mayor Wood expressed his appreciation to the Accounting Department.

**Recognized**

**5. Presentation of the Fiscal Year (FY) 2013 Comprehensive Annual Financial Report (CAFR).  
Presented by Keith Lee, Finance Director**

Councilmember Igleheart stated this report is the actual reason for the previous financial awards.

Director of Finance Keith Lee stated that was correct. Mr. Lee noted that he was bringing the FY 2013 Comprehensive Annual Financial Report (CAFR) to Mayor and Council this evening. He stated that the City auditors are Mauldin & Jenkins; he recognized Mr. Adam Fraley of Mauldin & Jenkins, who was in attendance. Mr. Fraley administers the City's account, works closely with Finance staff, the Accounting staff, and other City department staff.

Mr. Lee reviewing the report stated, "Just to give you some highlights shown in your CAFR, for FY13 ending, our assets exceeded liabilities by \$256 million. That is an increase of 2.17%. \$63.3 million of that is unassigned or unrestricted, meaning we have access to cash to do the services that we need to for the City. We are able to report a positive net position on the government activities as well as business activities. We talked about debt a little earlier. We have \$15.6 million in outstanding debt. Total debt per capita is \$166; as a function of our legal debt limit, 2.79%; so, we have 97.2% of our debt limit that we have not accessed. For our governmental revenues, 57% or 58% of our revenues are derived from property tax and sales tax; 31% is derived from charges for service. The cost of our governmental activities was \$64.6 million. That is a decrease of 3.19% from 2012. The largest expenditure in the budget is Public Safety at 38.09% or \$24.622 million.

Councilmember Price requested that Mr. Lee's presentation be placed on the overhead for visual reference. Mr. Lee projected the CAFR presentation with charts on the overhead screen.

Continuing, Mr. Lee stated, "The cost of governmental activities was \$64.6 million, government wide activities. We decreased from FY12 a 3.19%, meaning we had less expenditures in FY13 than we did in FY12. Our Public Safety was 38.9% of those expenditures, at \$24.622 million. The cost of our business type activities, these are our proprietary funds, water funds, solid waste funds; we expensed \$18.275 million; we collected \$19.8 million. Of that, 48.85% is related to the solid waste fund."

Referring to Fund Highlights, Mr. Lee stated, "Our General Fund. We ended the year \$4.6 million better than we expected, meaning that we added \$4.6 million to the bottom line. Our 911 Fund ended the year with \$564,000 more than we expected. Hotel/Motel Fund, our revenues exceeded expenses by \$155,000. The Water Fund ended the year with \$211,000 more than we expected. Solid Waste Fund \$104 million better than we expected; Participant Recreation Fund up \$442,000; and Storm Water \$1.87 million. Those are the highlights of our funds."

Mr. Lee stated, "We did have a couple of findings. One was our State Grant Fund was out of balance. As a result of that, you will see some changes in our budget ordinances in future years. We have capital in our State Grants that roll from year to year, they are multi-year capital projects; we aren't recognizing the revenue in our budget ordinance, so we will be making some changes there. We have a separate checking account for our State and Federal Confiscated Assets Fund. We were required to separate those funds that we get on confiscated assets from the federal government as well as the state. In FY14, we actually passed a budget with separate cost centers for those funds but we did not have them in separate checking accounts. The separate checking accounting has been set up and we have moved those funds. The final finding was Federal funding reporting of several awards over \$25,000. This is a required reporting whenever we have a sub-recipient such as the Child Development Center to HUD. Danny Blitch has already made changes to that and has begun making those reports. We have adjusted for our findings in this year's CAFR. That is the presentation of the CAFR." Mr. Lee offered to take any questions.

*Council questions:*

Councilmember Price requested a hard copy of the presentation. Mr. Lee confirmed he would provide her the presentation. No further questions.

*Public comments:*

Lee Fleck, Martins Landing. Mr. Fleck's comments made while approaching the

podium were not clearly audible.

Mayor Wood stated, "Mr. Fleck if you have a question, you will be given an opportunity to ask them. You are not here to direct employees." Mr. Fleck replied, "I stand corrected Mayor."

Mr. Fleck said he was pleased regarding "such a significant improvement in the City's annual financial over the last two years." He said many are aware of his objections to the City's method. Mr. Fleck said, "Mayor, recently you bragged about how great the City's finances are yet this Council couldn't give taxpayers back .4 mils in retired tax service." Mr. Fleck said, "Keith, I thought I heard you say you had \$4.6 million in favorable balance. There would have been no problem in retiring that .4 debt. We will cross that bridge in another year or so, won't we? Keith can you tell me when the CFR is going to be on the website? I can look at him, I am not asking you."

Mayor Wood asked Mr. Fleck to list his questions, addressing them to him, rather than to Mr. Lee.

Mr. Fleck stated, "Ms. Love, can you tell me when we will have that CFR on the website, please."

Mayor Wood asked that Mr. Fleck's question be put down, and kept track with the rest of his questions. Mayor Wood said, "I think there were two questions. Mr. Lee will answer the first one."

Mr. Lee said, "The CAFR will be on the website tomorrow. We would not put it up before we presented it to Mayor and Council." Mayor Wood thanked Mr. Lee.

Mayor Wood called for any other public comments.

Janet Russell, 260 Willow Springs Drive, stated Mr. Lee had mentioned excessive money now from solid waste collection. She strongly suggested that the City lower the rates for garbage collection.

Mayor Wood replied, "In the past, the fees were greater than the cost. At current, the fees are less than the cost, so over time, that will balance out." Ms. Russell replied, "No, he said we have excess now." Mayor Wood asked what the balance is in the Solid Waste Fund.

Mr. Lee stated, "From my presentation, I was basically giving us how we did from a budgetary basis. We performed better than on a budgetary basis by a million dollars. We had expected to use \$1.2 million of fund balance meaning we would have declined the fund balance by \$1.2 million. We actually only used \$230,000 of the fund balance on a budgetary basis." Mayor Wood said, "The costs were less than we had projected." Mr. Lee said that was correct. Mayor Wood replied, "We still spent more than we brought in." Mr. Lee replied, "That is correct sir, and that has been the plan for this fund. Once we adjusted the rates two years ago when we decreased the base rate by \$3.95." Mayor Wood thanked Mr. Lee and asked Ms. Russell if she had any other questions or comments.

Ms. Russell asked if she got another question. Mayor Wood said yes. Ms. Russell responded that "sometimes you shoot me down and have the police take me out." Mayor Wood said he didn't believe he had "shot anybody." Ms. Russell said verbally he had; she should be respected; she is the Mayor's boss. Ms. Russell said, "You already charge the people that get water from the City of Roswell more than people who get water from Fulton County per thousand gallons, so that you can make

money off of us. You now tell me that you really are making money if you have too much money in the garbage collection fund, you are still making money. You adjusted our rates. You say it costs more than before, you are still making money or it would be in the red zone again. My questions are these, is this government in the business to make money off of its citizens or to have a little bit in the account. Did he say we have \$253 million in a savings account? And yet our police are some of the poorest paid in Fulton County."

Mayor Wood called for any other public comments. No further comments were made.

Mr. Lee said, "May I clarify the \$253 million. That has to do with our total assets, meaning our fiscal assets; this building our roads, our infrastructure, as well as cash, as well as restricted assets by policies, or state laws." Mayor Wood thanked Mr. Lee.

**Presented**

**6. Approval of a Resolution to Provide Notice and Intent to Sell Bonds with a par amount not to exceed \$4,940,000.**

*Presented by Keith Lee, Finance Director*

Councilmember Igleheart introduced this item and noted that this is from the 2012 bond that was a total of \$14.7 million, which that was split up for a number of reasons. He said, "Some that make it easier to spend and also have longer time to spend them, is the short version." Mr. Lee said, "That is correct. We are asking for your approval for this notice of intent to sell \$4.9 million in general obligation bonds. Our financial advisor for Southwest has advised us this is a good time to be in the market. We would propose to sell these on April 14, 2014 or thereabouts. We do expect a true interest cost in the 2 to 2.5 percentile range, which is slightly higher than last year. The market has moved up."

Motion: Councilmember Igleheart moved for Approval of a Resolution to Provide Notice and Intent to Sell Bonds with a par amount not to exceed \$4,940,000. Councilmember Dippolito seconded.

*Public comments:*

Lee Fleck, Martins Landing, asked if the \$4.9 million was balance from the Bond Referendum. City Administrator Kay Love stated that is correct. Mr. Fleck asked when East Roswell can expect Fire Station #4 to be relocated. Mayor Wood responded, "As soon as a suitable piece of property has been acquired." Mr. Fleck replied, "This has been an ongoing public safety issue for the last five years and as we will hear momentarily, you all rezoned the entire city in eighteen months. When is the drop dead date that you will have to spend the money for the fire station?" Mayor Wood replied, "There is no drop dead date." Mr. Fleck stated, "If you do not spend it within a certain period of time, elaborate on what the ramifications are."

Mayor Wood stated, "Ms. Love, do we have to spend the money on the fire station. Can it be spent somewhere else?" Ms. Love replied, "I may have to get some help from Mr. Davidson. We would have to have a change in plans related to the need to replace the fire station. We could do it but there would be some action that the Council would have to take. The timeline kicks in related to once the bonds are issued, then we have a timeline in which to spend the funds." Mr. Fleck asked what that timeline is. Ms. Love replied, "Three years." Mr. Fleck asked, "So, you actually have one more year, approximately?" Ms. Love replied, "No sir, we won't issue the bonds until April of 2014, so that would be 2017. It is not when the referendum occurred. The bonds for the fire station are (remainder inaudible). Mr. Fleck replied,

*"When was the originally \$10 million issued, though." Ms. Love replied, "In 2013." Mr. Fleck stated, "Okay, was the fire station in that or is the fire station in this." Ms. Love replied, "It could have been. It is in this one. It could have been. We divided the projects up so it depends on the timeline of when projects are ready to break ground, so we have that flexibility. That was the reason for having two bond issues, to allow flexibility in timelines for construction of all the projects whether it was turf fields, transportation projects, pools, fire stations." Mr. Fleck said, "So right now, you are talking about once these bonds are issued, you have three more years before you have to spend the money on Fire Station #4 relocation, is that correct?" Ms. Love replied, "Correct."*

*Mayor Wood called for any other questions or comments from the public. There were none. There was no further Council discussion.*

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

**In Favor: 6**

Enactment No: R2014-02-04

### **Community Development - Councilmember Becky Wynn**

#### **7. Approval of an Ordinance to create the Unified Development Code and Map. (Second Reading)**

*(This item was deferred at the February 10, 2014 Mayor and Council Meeting)*

*Presented by Bradford D. Townsend, Planning and Zoning Director*

*\*Please Note: Due to the length of the minutes, it will be necessary to go back to the Meeting Details Section, File # 13-0607, and then select the Minutes file for this agenda item.*

**A motion was made by Council Member Diamond, seconded by Council Member Dippolito, to Adopt the UDC (2/21/14 second reading draft) effective June 1, 2014 or the adoption of the Design Guidelines, whichever is last.**

**The motion included the following:**

**The spreadsheet dated UDC amendments to the 2/21/14 draft;**

**Height map – UDC #5;**

**Replacement page - 3-6;**

**Additional PRD – Nesbit Lakes – pg. 3-49, section 3.5.17;**

**Appendix "A" additions – (Councilmember Igleheart's dated 2/24/14);**

**The map spreadsheet shall be attached;**

**Pg. 2-2 – Cottage Court building type – add definition of courtyard (done by Lee Einsweiler on 2/24/14);**

**1221 Riverside Road – change the northern boundary;**

**Attach the spreadsheet with the map;**

**Pg. 2-6, section 2.2.7 – remove the picture with the roof top outdoor amenity space;**

**Pg. 13-33 – add the casualty clause – (done by Lee Einsweiler on 2/24/14);**

**Pg. 2-16 – front loaded; add text related to the 20' minimum between garage and sidewalk as demonstrated in the picture;**

**Pg. 3-6, section 3.1.9 – remove two-family living in an attached house from the**

intent statement of R-CC;

Pg. 3-29 – Carriage House (lot subdivided after the effective date) – to be “C”;

Pg. 4-23, section 4.3.10, number 3 – building height (reference the UDC map);

Pg. 5-4, section 5.2.2 letter C – change “2 stories” to “1 story”;

Pg. 5-4, section 5.2.3, letter C – delete;

Pg. 9-21, section 9.7.1 B – add number 6 – new language related to “owner occupied”;

Pg. 9-21, section 9.7.2 B – add number 6 – new language related to “owner occupied”;

Pg. 11-3, section 11.2.6 letter D – remove number 3.

The motion carried by the following vote:

Councilmember Diamond, Councilmember Dippolito, Councilmember Wynn, and Councilmember Orlans voted in favor. Councilmember Price and Councilmember Igleheart were opposed.

In Favor: 4

Opposed: 2

Enactment No: ORD No. 2014-02-02

**8. Approval of Text Amendments to the City of Roswell Code of Ordinances required for adoption of the Unified Development Code (UDC) (Second Reading)**

*(This item was deferred at the February 10, 2014 Mayor and Council Meeting)*

*Presented by Bradford D. Townsend, Planning and Zoning Director*

*\*Please Note: Due to the length of the minutes, it will be necessary to go back to the Meeting Details Section, File # 14-0001, and then select the Minutes file for this agenda item.*

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

In Favor: 6

Enactment No: ORD 2014-02-03

**Environmental / Public Works Department - Councilmember Rich Dippolito**

**9. Approval for the Mayor and/or City Administrator to sign a contract with Layne Heavy Civil, Inc. for construction of the Roswell Water Treatment Plant (WTP) in the amount of \$14,570,391 and an additional \$150,000 in contingency for a total contract amount of \$14,720,391 and approval of Budget Amendment 50743200-02-24-2014 authorizing a transfer from the Stormwater Fund to the Water Fund in the amount of \$50,000 for the Stormwater Fund's share of the construction**

**of displaced operational storage.*****Presented by Stuart Moring, Director of Public Works/Environmental***

*Director of Public Works/Environmental Stuart Moring presented this item stating this is the resulting amount of the contract for construction of the Water Treatment Plant and the associated intake and raw water storage tank. This is the culmination of a long process. The bids came in above the amount of money that was allocated. Along with their City consultants, Jacobs Engineering, they entered into negotiations with the lowest bidder, Layne Heavy Civil, Inc. and were able to make some adjustments in the design plan to bring the dollar amount of construction in the realm of money that is available. The total amount would be \$14,720,391 that would include an additional amount of \$150,000 in contingency that would only be exercised in the event that there are unforeseen issues that need to be dealt with on a short term basis. In essence, the adjustments that have been made from the concept plans that have been seen are a reduction in the size of the operations building. There is a considerable amount of rock on the site underlying the soil therefore the revised design calls for raising the facilities and particularly the filters to minimize the amount of rock excavation that is required. The consequence of raising those facilities means that there will not be total gravity flow throughout the plant so some placement of facilities has been adjusted and a couple of transfer pump stations were added.*

*A photograph was placed on the overhead and Mr. Moring noted that the intake and raw water storage tank will remain the same. The reason for the supplemental funds from the Stormwater Fund is because of the expansion of some areas. The area adjacent to Dobbs Drive for the water plant will displace some current storage that is used by both water distribution and stormwater therefore; construction of an additional facility is needed. To make the finances work, they will use about \$50,000 from the Stormwater Fund for that construction.*

***Council Comment:***

*Councilmember Dippolito said he had two questions at Committee pertaining to this approval. The first is the cost of demolition of the existing plant and how that will be funded since that is not in this number. The second question is because the decant tanks and adjacent pump building are going to stay, what will be done to make sure these items do not disrupt the park.*

*Mr. Moring said he would address the second question first. He pointed out the locations of the decant basins and existing plant on the photograph and said those basins will remain. The original design included an equalization tank (he pointed it out on the photograph) on the western side of the property but that was problematic in terms of the extensive piping and so forth. The consultants working with the contractor determined that the decant basins would work well for that function and make use of the existing pump station to direct the decanted water. The bottom flow will be discharged to the sanitary sewer at Fulton County. The water on the top will be pumped back into the front end of the plant and recirculated. Therefore, those facilities will be there and are circular tanks that sit on a slope. The upper side of the tanks is about at ground level. If that is used as a public gathering area, there would need to be some pedestrian protection but it would not otherwise impact any activity that would take place on that bluff.*

*Mr. Moring then addressed Councilmember Dippolito's first question regarding demolition cost and said the estimate on the demolition work was \$100,000. The revised construction schedule was displayed on the overhead; Mr. Moring said the construction period is about 18 months which would mean that in October of 2015,*



*they would expect the plant to be operational. There would then be about a one year shake down period to make sure everything is functioning and providing suitable quality water and so forth. Then in the later part of 2016, they would be in a position to undertake demolition at whatever time to accommodate whatever facilities were available. He emphasized that the project will not include construction of additional park or recreational facilities. The demolition would be undertaken using Water Fund fund balance which he said Keith Lee reported on earlier in this meeting.*

*Councilmember Dippolito said that answered his question about how the demolition will be funded and he was fine with that but he was still unclear as to the impact of the decant basins and the pump building. He said they have gone to great lengths to preserve at least a passive park area and his preference would be to spend a little time...[he did not complete the comment].*

*Mr. Moring said they have considered some options and he would not say this is the answer but there is a possibility of a trail that would lead from the bluff area to the east that would join a trail that runs down along the slope over to the intersection of Dobbs and Oxbo Roads and ultimately lead to the bridge across Big Creek to the park property or upstream to Waller Park. He referred to a drawing on the overhead and said it is a conceptual drawing of one possibility but it is not part of the plan.*

*Mayor Wood said this is a conceptual drawing for a recreational use. Mr. Moring said it is one possibility but it is not incorporated.*

*Mayor Wood said they are asking a public works person a question regarding a recreational plan and for the long term recreational plans for this but that question would be best addressed to the Recreation and Parks Department. He said Public Works could look at where the tanks could be moved in the future however they should not be asking them how these tanks would affect a potential use of a park that has not yet been designed because that is outside their scope of expertise.*

*Mr. Moring displayed an architectural rendering on the overhead; he noted that the covers that are shown are conceptual and the tanks are not covered at this time. He said this might be a location for an observation point but as the Mayor noted, this is not their area of expertise and they are very cautious in sharing these possibilities, understanding that they are not part of the project.*

*Councilmember Dippolito asked if there is an idea of the cost to put covers on the tanks.*

*Mayor Wood said there is a long term possibility to convert this area to a recreational use but currently there are not any plans. He said this is a good question but premature in the sense that there are not currently any plans for this park. There are two possibilities when they come forward with a recreational plan for this property; one would be to move the tanks at a later time to another location at an additional cost, and another would be to design the park around them. But the question goes beyond the scope of what has been studied. The issue was that they had cost overruns and needed to know how to bring that within budget and the only way to bring it within budget was to not spend money to demolish the tanks and rebuild them but use them in their current location. If they are talking about what to do in the future to develop this area into a park, they will need to address that in the future or hold up the entire project until they come forward with a plan for a park which they do not have money for or a current need for.*

*Councilmember Dippolito said he agreed with Mayor Wood to a point but this project was approved based on these tanks or the pump station not being here. He said as*

he mentioned before, they went to great lengths to not have them there so there could be more of a bluff and a greenspace and at least a passive park for the community. The other plan was approved based on a cost given by the consultants that turned out inaccurate so now there are cost overruns and they are being asked to sacrifice the greenspace to make those changes. He said it is very relevant because the original approval was based on the prior plan at a certain cost but we are no longer there, we are somewhere else.

Mayor Wood said it is relevant but his position is that as much as he loves greenspace, drinking water is more important. He said we have greenspace; we are not losing all of the greenspace, only a portion of it. He understands it is relevant to Council but if they are going to move forward with this plant, they will either need to come up with a lot more money for a potential park that is not on the agenda or they can approve this as is and move it forward. He said he is in support of moving forward as is.

Councilmember Igleheart said he had been sidetracked with the UDC and had taken his eye off this ball and was frustrated with himself about that. He said he understands the cost side of it but said ultimately there might be something that could be built over it. He asked if a cover could be put on it, could they not put a view point over it. He said there could be public art on the concrete and this could be the first public art project. He agreed with the Mayor's point as well that they need to get this moving forward and said, "We spent so much time and effort and then so much going to not do this; I'm this close to just saying no." He asked if the cost is \$100,000 for the demolition or what is the total cost for all of the elements.

Mr. Moring said that is the estimated cost for the demolition. It does not encompass any of the work relative to the future park area.

Councilmember Dippolito said for clarification, the demolition is for the existing water plant, not for these components. He said to Councilmember Igleheart, these tanks would stay and so would the pump station. Those are not being demolished, it is the existing plant.

Councilmember Igleheart said he understands that but the only way they would not be there is if they are demolished or moved. He said part of the plan at one point was these were not intended to stay.

Mr. Moring said that is correct, the equalization tank was on the western part of the property...[he did not complete the comment].

Mayor Wood said for the purpose of illustration, if they go back to the original plan and not move these, how much this would add to the project.

Mr. Moring said, "I don't think that we specifically cost out that tank; we just said we can save some money by eliminating that."

Mayor Wood asked for a ballpark amount of how much they are saving.

Mr. Moring replied that they did not discuss that but he would go out on a limb and say approximately \$300,000-\$400,000 for that particular element. However, there was also some piping to get to that place from the site of the clear well and eliminating that piping would eliminate all the rock excavation that goes with that.

Mayor Wood said \$400,000 plus is a substantial number. Mr. Moring replied yes.

*Councilmember Igleheart said they used to stand on the ones that had covers and actually had a good view but they would not want the public doing that and asked if there was a cover over the tank, could something be built over it where people could stand or would that cause an operational problem.*

*Mr. Moring said he thought it could be designed to be functional that way but he did not know if it needed to be open air or in other words would the cover need to have a gap between the top of the concrete and the rim of the tank itself. Councilmember Igleheart asked, so a deck could be on top. Mr. Moring said yes, a hard stand with picnic tables or an observation port or something of that nature.*

*Councilmember Igleheart said that would probably be a reasonable compromise.*

*Mayor Wood told Councilmember Igleheart that he thought it was a reasonable compromise but he was hesitant to put a cover on them before they have the new park designs because the solution might be a cover or it might be landscaping or there might be a great project there and they need to move the tanks.*

*Councilmember Igleheart said he could concede and go ahead if that is a possible alternative but if they say there is no way to do that and they have to be exposed, he would feel differently.*

*Mr. Moring said he would give the standard engineering response "if you've got the money and the time, we can build it."*

*Councilmember Igleheart said it seems rational that could work and perhaps they will all get what they hoped for but just a little different.*

*Councilmember Dippolito said it appeared from the rendering that Mr. Moring had shown that there is no requirement to have fencing around this such as the chain link fencing they had talked about earlier in the evening. He asked if people can be close to these tanks or do they need to be isolated. He asked if there can be landscaping around them. Mr. Moring said absolutely. Councilmember Dippolito asked if they will need truck access. Mr. Moring said he did not see a need for truck access to the tanks but they would probably need to have a pathway to get to it using equipment but not like a dump truck or something of that nature. He said he did not know all the ins and outs of ADA requirements or general pedestrian requirements but a chain link fence would not be a part of that process. Councilmember Dippolito said, "You are on record now, you realize?" Mr. Moring replied yes, and said absolutely the potential for vegetative screening will be exercised fully. Councilmember Dippolito thanked Mr. Moring.*

*Mayor Wood called for a motion.*

*Motion: Councilmember Dippolito made a motion for Approval for the Mayor and/or City Administrator to sign a contract with Layne Heavy Civil, Inc. for construction of the Roswell Water Treatment Plant (WTP) in the amount of \$14,570,391 and an additional \$150,000 in contingency for a total contract amount of \$14,720,391 and approval of Budget Amendment 50743200-02-24-2014 authorizing a transfer from the Stormwater Fund to the Water Fund in the amount of \$50,000 for the Stormwater Fund's share of the construction of displaced operational storage with the ultimate goal of being able to incorporate these items into a park like setting. Councilmember Wynn seconded.*

*Public Comment:*

*Lee Fleck asked if he heard the motion correctly that it does not include the approval of the budget amendment to transfer funds from the Stormwater Fund to the Water*

*Fund.*

*Councilmember Dippolito said it does include it.*

*Mr. Fleck said the Stormwater Fund comes from funds from impervious fees paid by property owners, businesses, churches, and the most significant portion is roadways. That is a separate fund and yet the Water Fund is an Enterprise Fund which by state law must be self-funded and therefore, they are basically breaching the possibility of an injunction because they would be violating state law. He said he has warned Council about that on a couple of occasions and said be advised accordingly.*

*No further public comments. The public hearing was closed.*

*Mayor Wood asked Mr. Moring to explain the justification behind \$50,000 being transferred from the Stormwater Fund.*

*Mr. Moring said that money is for the operation of the stormwater program and providing facilities for that program. Mayor Wood asked what facilities would be provided for stormwater. Mr. Moring replied, the storage yard for equipment and materials that would be displaced as a consequence of this construction. Mayor Wood said for stormwater needs, it would be an equipment yard. Mr. Moring said that is correct.*

*There was no further Council discussion.*

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

**In Favor: 6**

**10.**

**Approval of a Resolution to authorize execution of all documents for a Georgia Fund loan from the Georgia Environmental Finance Authority (GEFA) in an amount not to exceed \$15,000,000 to finance the construction of the Roswell Water Plant and approval of Budget Amendment 50544300-02-24-14 establishing revenue and expenditure budgets in the amount of \$15,000,000 and appropriating \$150,000 from Water Fund fund balance for Debt Issuance Costs.**

*Presented by Stuart Moring, Director of Public Works/Environmental*

*Director of Public Works/Environmental Stu Moring presented this item stating the application for the loan from the Georgia Environmental Finance Authority (GEFA) was previously approved by the Mayor and Council. This action essentially facilitates that and it provides for the financial details that will execute that loan and make those funds available for the construction of the water plant. Basically, approval of this item will allow the execution of the previously approved item.*

*There were no questions from Council. Public comment invited. None were made.*

**A motion was made by Council Member Dippolito, seconded by Council Member Price, that this Item be Approved. The motion carried by the following**

vote:

In Favor: 6

Enactment No: R2014-02-05

### **City Attorney's Report**

**11. Approval of an Ordinance to amend the Code of Ordinances of the City of Roswell, Chapter 13, to amend Existing Section 13.1.1 "Disorderly Conduct" and to add new Sections 13.1.4 through 13.1.12. (First Reading)**

*Councilmember Orlans introduced this item. City Attorney David Davidson conducted the reading of an ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ROSWELL CHAPTER 13 TO AMEND EXISTING SECTION 13.1.1, "DISORDERLY CONDUCT," AND TO ADD NEW SECTIONS 13.1.4 THROUGH 13.1.12 stating pursuant to their authority, the Mayor and Council do hereby adopt the following ordinance:*

1.

*Section 13.1.1 of the Roswell Code of Ordinances is hereby amended by deleting in its entirety the current Section 13.1.1 and substituting a new Section 13.1.1 to read as follows:*

*13.1.1 Disorderly Conduct.*

*(a) It shall be unlawful for any person to disturb or endanger the public peace or decency by any disorderly conduct.*

*(b) The following acts, among others, are declared to be disorderly conduct:*

*(1) Act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of such person's life limb or health;*

*(2) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed;*

*(3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;*

*(4) Assemble or congregate with another or others for the purpose of gaming;*

*(5) Be in or about any place, alone or with others, with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing or to aid or abet any person doing so;*

*(6) Be in or about any place where gaming or illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs are practiced, allowed or tolerated, for the purpose of or intent to engage in gaming or the purchase, use, possession or consumption of such illegal drugs, narcotics or alcohol;*

*(7) Direct fighting words toward another, that is, words which by their very nature tend to incite an immediate breach of the peace;*

*(8) Interfere, by acts of physical obstruction, with another's pursuit of a lawful occupation;*

*(9) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by a city police officer or other lawful authority;*

*(10) Stand or remain in or about any street, sidewalk, overpass, or public way so as to impede the flow of vehicular or pedestrian traffic, and to fail to clear such street, sidewalk, overpass or public way after being ordered to do so by a police officer or other lawful authority;*

(11) *Disrupt by actions which tend to cause an immediate breach of the peace the undisturbed activities of any house of worship, hospital, or home for the elderly;*  
(12) *Throw bottles, paper, cans, glass sticks, stones, missiles, or any other debris on public property;*

(13) *To publicly expose, post or circulate any lewd, profane or obscene picture, card or printing within the city or*

(14) *To use profane or obscene language in public.*

*State law reference - Disorderly conduct, O.C.G.A. § 16-11-39.*

2.

*Chapter 13 of the Roswell Code of Ordinances is hereby amended to add Sections 13.1.4 through 13.1.12 to read as follows:*

*13.1.4 Vandalism.*

(a) *Public property. It is unlawful for any person to mar, deface, disfigure, spoil, ruin, damage, or in any way alter the appearance or operation of any public property or park in the city.*

(b) *Private property.*

(1) *It is unlawful for any person to mar, deface, disfigure, spoil, ruin, damage, or in any way alter the appearance or operation of any private property without the consent of the owner.*

(2) *This subsection shall not be construed as affecting any remedy the private property owner may have at law.*

*State law reference - Criminal trespass, O.C.G.A. § 16-7-21.*

*13.1.5 Panhandling.*

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

*Aggressive panhandling means and includes:*

(1) *Intentionally or recklessly making any physical contact with or touching another person or his vehicle in the course of the solicitation without the person's consent;*

(2) *Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;*

(3) *Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;*

(4) *Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to Article 18.4 of the Roswell Code of Ordinances shall not constitute obstruction of pedestrian or vehicular traffic;*

(5) *Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or words intended to, or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;*

(6) *Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a*

*criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.*

*Public area means an area to which the public or a substantial group of persons has access including, but not limited to, alleys, bridges, buildings, driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public*

*Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, including employment, business or contributions or to request the sale of goods or services. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.*

*(b) Prohibitions. It shall be unlawful for any person, firm, organization, or corporation to aggressively panhandle within any public area in the city or panhandle or solicit funds for the sole benefit of the solicitor:*

*(1) In any public transportation vehicle, or bus or subway station or stop;*

*(2) Within 15 feet of any entrance or exit of any bank or check cashing business or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;*

*(3) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or*

*(4) From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.*

*(c) Applicability. This article regulates the time, place and manner of solicitations and shall not apply to any persons from exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity.*

#### *13.1.6 Loitering and prowling.*

*(a) It shall be unlawful for a person to be in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.*

*(b) Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.*

#### *13.1.7 Prostitution.*

(a) *Definitions.*

(1) *Prostitution.* The act or practice of engaging in sexual activity for money or its equivalent. This includes, but is not limited to, acts also known as "sodomy for hire," and "masturbation for hire."

(2) *Solicit for prostitution.* Any person who offers to pay money or the equivalent for another to perform or engage in sexual activity.

(3) *Purchase of prostitution.* Paying money or its equivalent to another person to perform or to engage in sexual activity.

(4) *Sexual activity.* The touching of another's breast, vagina, penis or anus. Both persons (the person touching and the person touched) are said to engage in sexual activity.

(b) *It shall be unlawful to engage in prostitution within the city limits.*

(c) *It shall be unlawful to solicit prostitution or to purchase prostitution within the city limits.*

(d) *Violation of this Code section shall be punished by a fine not to exceed \$2,000.00 or by 180 days imprisonment, or by both such fine and imprisonment.*

*State law reference - Similar provisions, O.C.G.A. § 16-6-9 et seq.*

13.1.8 *Public intoxication.*

*Any person on the streets, sidewalks or other public places within the corporate limits of the city, who acts in a reckless manner so as to create an unreasonable risk to himself, to others, or to property in the vicinity while under the influence of alcohol or drugs is in violation of this section.*

13.1.9 *Hindrance of a police officer.*

*No person shall in any manner oppose or interfere, by acts or menaces, any police officer in the discharge of his official duties, or strike, assault, molest or abuse such officer. State law reference - Obstruction or hindering of law enforcement officers, OCGA § 16-10-24.*

13.1.10 *False representations to police or to any city department, employee or agent.*

*It shall be unlawful for any person, knowingly and willfully and with intent thereby to mislead, either in such person's own behalf or on behalf of others, as principal or as agent, to make or file, orally or in writing, any false representation of fact to any police officer of the city. It shall be unlawful for any person, knowingly and willfully and with intent thereby to mislead, either in such person's own behalf or on behalf of others, as principal or as agent, to make or file, orally or in writing, any false representation of fact to any department, employee or agent of the city government regarding any application for a permit, license, or any other official city matter.*

13.1.11 *Loitering for the purpose of using, possessing or selling any controlled substances.*

*(a) It is unlawful for any person to loiter in a public place in a manner and under circumstances manifesting the purpose of illegally using, possessing or selling any controlled substances as that term is defined in O.C.G.A. § 16-11-36, as now enacted or hereafter amended. Among the circumstance which may be considered in determining whether such a purpose is manifested are:*

*1. The person is a known illegal user, possessor or seller of controlled substances, or the person is at a location frequented by persons who illegally use, possess, transfer or sell controlled substances; and*

*2. The person repeatedly beckons to, stops, attempts to stop or engage in conversation with passersby, whether such passersby are on foot or in a motor vehicle, for the purposes of inducing, enticing, soliciting or procuring another to illegally possess, transfer or buy any controlled substances; or*

*3. The person repeatedly passes to or receives from passersby, whether such*



passersby are on foot or in a motor vehicle, money, objects or written material for the purpose of inducing, enticing, soliciting or procuring another to illegally possess, transfer or buy any controlled substance.

(b) In order for there to be a violation of subsection (1), the person's affirmative language or conduct must be such as to demonstrate by its expressed or implied content or appearance a specific intent to induce, entice, solicit or procure another to illegally possess, transfer or buy a controlled substance.

(c) No arrest shall be made for a violation of subsection A. unless the arresting officer first affords the person an opportunity to explain his conduct, and no one shall be convicted of violating subsection (a), if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(d) For the purpose of this section, a "known illegal user, possessor or seller of controlled substances" is a person who, within one year previous to the date of arrest for violation of this section, has, within the knowledge of the arresting officer, been convicted of illegally manufacturing, using, possessing, selling, purchasing or delivering any controlled substance.

(e) Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed \$500.00 per violation or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment.

#### 13.1.12 Petty Trespass.

(a) It is unlawful for any person to enter upon the land or premises of another, or in or upon any vehicle, boat or aircraft owned by another, after having received notice from the owner, lawful occupier, lessee, tenant, or any agent thereof, that entry is forbidden. If requested by the owner, lawful occupier, lessee, tenant, or any agent thereof, of the premises, or vehicle, boat or aircraft, a police officer may give such notice.

(b) After notice as provided in subsection (a) of this Code section has been given, it shall be unlawful for a person to remain upon the land or premises of another, or in or upon any vehicle, boat or aircraft owned by another.

(c) Violation of this Code section shall be punished by a fine not to exceed \$1,000.00 or by 180 days imprisonment, or by both such fine and imprisonment.

Mr. Davidson noted that if approved this would be the first reading. Mr. Davidson noted that under Disorderly Conduct #13 and #14 were added back in after the discussion at Committee.

Motion: Councilmember Orlans moved for Approval of an Ordinance to amend the Code of Ordinances of the City of Roswell, Chapter 13, to amend Existing Section 13.1.1 "Disorderly Conduct" and to add new Sections 13.1.4 through 13.1.12 on First Reading. Councilmember Wynn seconded. Public comment invited. There was no public comment.

#### Council question:

Councilmember Price asked what language was added back into the ordinance. City Attorney David Davidson clarified that it is under Section 1, second page; both #13, and #14, regarding lewd, profane or obscene picture, card or printing within the city, or to use profane or obscene language in public.

**A motion was made by Council Member Orlans, seconded by Council Member**

Wynn, that this Item be Approved on First Reading and placed on the Mayor and City Council agenda for 3/10/2014. The motion carried by the following vote:

In Favor: 6

Enactment No: ORD No. 2014-03-04

**12. Recommendation for closure to discuss personnel and real estate.**

Mayor Wood cancelled closure due to the late hour.

**Adjournment - 11:49 p.m.**