



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

Monday, March 10, 2014

7:00 PM

City Hall

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; Police Chief Rusty Grant; Fire Chief Ricky Spencer; Deputy Fire Chief Ricky Burnette; Community Development Director Alice Wakefield; Planning and Zoning Director Brad Townsend; Environmental/Public Works Director Stu Moring; Finance Director Keith Lee; Human Resources Director Dan Roach; Recreation and Parks Director Joe Glover; Recreation and Parks Assistant Director Morgan Rodgers; Transportation Director Steve Acenbrak; Transportation Deputy Director David Low; Transportation Planning Manager Chris Chovan; Community Development City Planner Jackie Deibel; Assistant to Community Development Director Kristina Lappin; Community Relations Coordinator Karen Zitomer; Historic and Cultural Affairs Manager Morgan Timmis; Police Captain Ken McRae; Police Lieutenant David Shepard; Police Lieutenant Kevin Smith; Stormwater Crew Supervisor Yoel Martinez; City Traffic Engineer Muhammad Rauf; Recreation Superintendent/East Katie Trolene; Smith Plantation Historic Site Coordinator Chuck Douglas; Building Operations Technician Timothy Thompson; City Clerk Marlee Press.

Pledge of Allegiance - Kervin Martinez

Kervin introduced himself and said he was attending the meeting to see his father receive an award.

CONSENT AGENDA

1. **Approval of the January 27, 2014 Mayor and Council Meeting Minutes (to replace the Council Brief approved on February 10, 2014); Approval of the February 24, 2014 Mayor and Council Meeting Brief.**
Administration
Approved
2. **Approval of Budget Amendment 27575402-03-10-14 appropriating Hotel/Motel Fund fund balance in the amount of \$10,000 to reimburse the Roswell Convention and Visitor's Bureau (CVB) for the City's share of the 2013 Heirloom Holidays community event.**
Finance
Approved
3. **Approval of three Stand-By Architectural Design Firms.**
Community Development
Approved
4. **Approval for the Mayor and/or City Administrator to sign a contract with AMEC for the Big Creek Parkway Value Engineering (VE) Study in the amount of \$46,889.65.**
Transportation
Approved

Approval of the Consent Agenda

A motion was made by Council Member Orlans, seconded by Council Member Price, to approve the Consent Agenda. The motion carried by the following vote:

In Favor: 6

REGULAR AGENDA

Mayor's Report

1. **Recognition of the 2014 City Administrator's Leadership Award Nominees.**

City Administrator Kay Love presented this award stating this is the first annual City Administrator's Leadership Award. The award was created to recognize one City of Roswell employee who demonstrates the essence of leadership, who they are and what they do in their job at the City. There were fifteen nominees for this award and that shows that the City employees are its greatest asset. They are always on the job and always thinking about their job and how to make it better. They are also thinking about their fellow co-workers and the citizens which is one of the most important things the City does in delivery of services. The criteria for the award is based on the City's vision statement and core values and leadership qualities that are promoted in the City such as: striving for excellence, inspiring a high level of commitment from others, collaborating and sharing knowledge, demonstrating customer delight, innovative problem solving, being a good listener, and getting things done. Ms. Love said this year's recipient does all these things. She then recognized Yoel Martinez and asked him to join her at the podium. Ms. Love said a favorite quote of hers by John Quincy Adams is "if your actions inspire others to dream more, to do more, to become more and learn more, you are a leader" and Yoel optimizes that in what he does at the City of Roswell. She said Yoel works in the Stormwater Division and has been with the City for fifteen years and was nominated by one of his co-workers, Brady Hill. Some of the things Brady said about Yoel are that he is considered a leader among his peers; he is a go-to person for help and advice; he strives for excellence in everything he does; he shares his knowledge with others by teaching, encouraging and going out of his way to make sure that customer delight is delivered and he is also a good listener and mostly importantly no matter the circumstance, he treats others with respect.

Ms. Love presented the award to Yoel and said the statue was inscribed Leaders stand out by the nature of their commitment and the integrity of their character and that is what Yoel is about.

Ms. Love recognized the other nominees of the award and those who were present came forward for recognition. The nominees were as follows:

- A. J. Argentina
- Ricky Burnette
- Kristina Lappin
- Keith Lee
- Dong Luu
- Captain Ken McRae
- Paul Piccirilli
- Lt. David Shepard
- Lt. Kevin Smith
- Fire Chief Ricky Spencer
- Kenny Sumner
- Brad Townsend
- Tai Vo
- Alice Wakefield

There was a round of applause for all of the nominees. Photos were then taken with

Mayor and Council.

2. Recognition of the City of Roswell, Historic and Cultural Affairs Division, for winning the Gold award for Best Cultural Event at the 2014 Kaleidoscope Awards.

Historic and Cultural Affairs Manager Morgan Timmis said we are proud to have been recognized this year by the Southeastern Festival and Events Association (SFEA). She said their Director, Wendy Thompson was invited to present the award but she was unable to attend tonight. She recognized some of the volunteers that made this possible: Marie Epps, Gail Bohannon, Chuck Douglas, Sally Hansell, Marla Churlin, Sarah Chandler, Cheryl Small, Sharon Crumley, Jackie Daniels and Robert Winebarger.

Ms. Timmis read Wendy Thompson's comments: "What happens when you combine cardboard, fried foods, country music and a month long event celebrating history? You have four of the best festivals in the Southeast. They were spotlighted at the Southeast Festival and Events Kaleidoscope Awards in Savannah on February 18th and the ceremony was held in conjunction with the 11th Annual Southeast Festival and Events Conference. The SFEA incorporated a new category into this year's Kaleidoscope Award program since we recognize the importance culture brings to not only our traditions but also to our communities. And what better way to do this than through a festival or event. It is only fitting that the inaugural award was given to the City of Roswell for Roswell Roots, being they had the foresight to begin this event 13 years ago and that it has in itself become a tradition. Congratulations to all of you that have played a role in this event's continued success."

Mayor Wood thanked everyone who worked on the event and made it the great success it has become. He said this festival had made February, an otherwise bleak month, a very exciting time. He thanked in particular, the Groveway Community and Gail Bohannon for taking the leadership and beginning this process and everyone else who helped them make this possible along the way. He said this is a great celebration and one that has become a tradition and will remain a tradition for years to come that everyone can be proud of.

Administration and Finance Department - Councilmember Kent Igleheart

3. Approval of a Resolution to Authorize Fulton County to Conduct City of Roswell Elections.

Presented by Michael Fischer, Deputy City Administrator

Councilmember Igleheart introduced the two items for the Administration and Finance Department and said the two items tonight are related to the Special Election to fill the unexpired term of Municipal Judge to be held on May 20, 2014. The first item is to approve a Resolution to authorize Fulton County to conduct City of Roswell elections.

Deputy City Administrator Michael Fischer presented this item stating this is consideration for that and this contract must be signed with Mayor and Council approval.

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

A motion was made by Council Member Igleheart, seconded by Council Member Dippolito, that this Resolution to authorize Fulton County to conduct

the Special Election for Roswell on May 20, 2014 be approved. The motion carried by the following vote:

In Favor: 6

Enactment No: R2014-03-06

4. **Approval for the Mayor and/or City Administrator to sign a contract with Fulton County to conduct a Special Election for the City of Roswell on May 20, 2014 in the amount of \$8,606.40 and approval of Budget Amendment 10013300-03-10-14 allocating FY 2014 General Fund Operating Contingency.**

Presented by Michael Fischer, Deputy City Administrator

Councilmember Igleheart said the budget for the Special Election and Special Runoff Election, if necessary, is \$4,303.20 for each.

Deputy City Administrator Michael Fischer said if the Special Election does not happen that amount will be reimbursed to the City.

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

A motion was made by Council Member Igleheart, seconded by Council Member Dippolito, that this contract with Fulton County to conduct a Special Election for Roswell in an amount not to exceed \$8,606.40 and the Budget Amendment be approved. The motion carried by the following vote:

In Favor: 6

Community Development - Councilmember Becky Wynn

5. **CU 201303673 - Conditional Use, 1565 Holcomb Bridge Rd., Regina Caeli Academy, Inc. Land Lot 613.**

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Brad Townsend presented this item stating this is a Conditional Use in the current category for a private school. There was an approval for a church on this location approximately a year and a half ago that never came to fruition and now Regina Caeli is proposing to use this as a private school. The Planning Commission has recommended approval. Staff is recommending approval. Mr. Townsend referred to an aerial on the overhead and said this is an existing facility that has the old Amana Academy building on the rear with a gymnasium located on the front. It is accessed from Holcomb Bridge Road. He pointed out the current zoning and said it backs onto Martins Landing and he pointed out the area that has Commercial on the eastern and northern locations. Staff has recommended approval of this proposal and as part of their review and due diligence found that part of the building does not meet fire code requirements for children in classrooms; therefore, they would be removing a portion of the building on the same foundation and rebuilding that portion. He displayed the proposed site plan of the development showing the existing buildings and parking spaces. He said staff is recommending approval of this application with the conditions included in the Resolution for approval.

Council Comment:

Councilmember Dippolito said to Mr. Townsend that he understands this was previously a school and asked if it was Amana Academy. Mr. Townsend replied yes. Councilmember Dippolito asked if there is any concern about the transportation aspects of this because the entry and exit into Holcomb Bridge Road is a little precarious.

Mr. Townsend said his understanding is that their type of schooling is only twice a week. The people who would be there five days a week would be the administrators which would have much less of a traffic impact than perhaps 100 students five times a week.

Councilmember Dippolito asked if the Transportation Department has any concerns about the existing conditions. Mr. Townsend replied they are fine with this.

Public comment invited. None were made.

A motion was made by Council Member Wynn, seconded by Council Member Dippolito, that this Conditional Use at 1565 Holcomb Bridge Road be approved with the following staff conditions:

- 1. The owner/developer shall develop the property in accordance with the site plan stamped "Received December 3, 2013 City of Roswell Community Development Department."**
- 2. The pool shall be removed prior to the certificate of occupancy for the school.**
- 3. The evergreen trees as approved by the Design Review Board shall be planted by December 31, 2014.**
- 4. A change of use which is not a part of the letter of intent will require council approval.**

The motion carried by the following vote:

In Favor: 6

Enactment No: R2014-03-07

- 6. CU201400051, CV201400070, Roswell Auto Imports, 10469, 10471, 10473 Alpharetta St. (THE APPLICANT HAS WITHDRAWN)**
Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Brad Townsend presented this item stating this is an application for a conditional use. The subject property is three locations with three existing buildings that were two former restaurants and a dry cleaning business. What is being proposed under the conditional use is to move a used car establishment onto three-quarters of the acre of this piece of property to meet the minimum requirement of 0.75 acres. It is currently zoned C-3 so the application is not a rezoning; it is a Conditional Use to be able to use the property as a dealership. Two existing buildings would be removed and one would be retrofitted to be used for offices for sales. When this was originally proposed, the applicant proposed not to meet the detention requirements and that is the site plan the Planning Commission reviewed and they recommended denial of that application. The applicant was also requesting variances to the minimum landscaping buffers around the property. A

subsequent site plan has been submitted that meets the detention requirements and a majority of the landscaping requirements. Staff is recommending approval of this application with the minor variance to the small landscaping area. Four conditions were placed in the Resolution and staff would like re-wording on conditions #3 and #4. Because there is concern that the infrastructure for the detention that would be put in place is where the parked cars would be located, they are recommending that detention be put in prior to the issuance of the CO. Also, on their reconfiguration site plan, the parking lot now meets the code requirements so staff is recommending rewording that condition to include "that a final plat is recorded" to ensure there is three-quarters of an acre for this proposed conditional use.

Council Comment:

Councilmember Igleheart asked where things stand now in terms of the stormwater. Mr. Townsend replied they are meeting the complete requirements for stormwater detention on the property.

Councilmember Dippolito asked Mr. Townsend to explain how the parking works and said it looks like they are double stacked and there are parking spaces where there is no access. He asked if there are any code concerns on having parking spaces that are not accessible. Mr. Townsend referred to a plan on the overhead and pointed out a row that is double stacked that is storage of cars and then pointed out the spaces for employees or customers and said they are accessible and meet the code requirements. Councilmember Dippolito asked if they meet the requirement for the minimum number of parking spaces for customers. Mr. Townsend replied yes.

Councilmember Diamond said she noticed in the Planning Commission discussion that the applicant indicated that the number of cars could be conditioned in designated spaces and asked if that was pursued or since the Planning Commission denied it, it was not talked about. Mr. Townsend replied it was not pursued at Planning Commission but the code requires that the cars on the site be striped designated parking spaces but it is tough to control and it would be an enforcement issue if they did not maintain the circulation on and off the property or if they stacked them three deep instead of two deep. Councilmember Diamond asked if that is something that would be conditioned by Council or because the site plan has those stripes then that is what they are tied to. Mr. Townsend replied that Council would be conditioning it to a site plan if they choose for this use to be there and that is where they would be allowed to park the cars on this location.

Councilmember Dippolito asked what would happen with the existing structure. Mr. Townsend replied two structures would be demolished and removed and the other building would remain to be used for offices and they would also add two bays for cleaning the cars on the rear of that building. Councilmember Dippolito asked if there is intention to renovate or remodel the building. Mr. Townsend replied he would have the applicant speak to that.

Councilmember Dippolito referred to the entry drive and said it does not appear that there are radii drawn on the two curbs and asked if that would be worked out later with the Transportation Department. Mr. Townsend replied yes, they would have to deal with the Land Disturbance Permit for Transportation and he referred to the overhead and asked Councilmember Dippolito if that was the locations he was referring to. Councilmember Dippolito said yes and it looks like it is incomplete. Mr. Townsend agreed and then said one of the other improvements to the area is they would be eliminating one curb cut and noted that each of the three existing parcels had curb cuts to Alpharetta Highway.

Mayor Wood asked how many curb cuts would be removed. Mr. Townsend replied

one would be removed and two would remain. Mayor Wood said the plat he was looking at only shows one curb cut and asked where the second curb cut is. Mr. Townsend pointed it out on the overhead.

Councilmember Wynn asked if they approved this site plan tonight, wouldn't that curb cut need to be shown on the plan. Mr. Townsend replied no, that would be with the approval of whatever comes in for the LDP for that development on that piece of property. Councilmember Wynn said even though that piece of property is part of tonight's conditional use, wouldn't the plan have to show that because it is a vacant lot. Mr. Townsend replied yes that is right.

Councilmember Price said, "Apparently there are cars on...[she did not complete the comment]. Mr. Townsend said yes that are used for storage. Councilmember Price said it is related to cars online and asked if that is currently an acceptable use. Mr. Townsend replied yes for storage. Councilmember Price said then that did not have to come to us; it is just being stored on a vacant lot. Mr. Townsend replied correct. Councilmember Price asked if that was the center lot. Mr. Townsend replied no, it is the most northern lot and he pointed it out on the plan. Councilmember Price asked if that is presumably going to continue. Mr. Townsend replied that is going to go away. Councilmember Price said that is going away and asked, "Because they are going to come into the other two or are they a totally separate entity?" Mr. Townsend replied they are separate entities. Councilmember Price said, "But the building is going to be demolished on...we will call it lot 1, the northerly one" and lot 1 is going to have the building removed and nothing put there until such time as they make an application. Mr. Townsend said yes, an application to DRB to do something that would be approved under C-3 zoning or after June 1st, UDC zoning.

Councilmember Price said she also noticed that the Transportation Department made comments that there needs to be sight lines coming off Horton Drive. She said she tried to come out of there today and could not because there was not adequate sight and in her opinion, you could only turn right because she did not want to risk trying to turn left. She said she decided not to even turn right and backed up and went around the other way. She asked what is the use of that road and said it is a public road but someone cannot pull out from there. It seems odd that the applicant is being asked to provide adequate proof that the road can be exited because there is no plan to change that road. Mr. Townsend said the layout or the location of Horton Road does not change. Councilmember Price said right, then why is that one of Transportation's comments. She said it is not a condition so it does not really affect it. Mr. Townsend said he thought it was a concern that the new curb cut on Horton would have the proper sight distance locations, which it does. Councilmember Price asked if someone from Transportation could address this comment that says, "verify sight distance for left turn out on Horton Drive." She said it is not related to the curb cut but related to Horton Drive which is an existing road. Mr. Townsend pointed out something on the overhead and said what they are probably showing is in this area of the sight...there might be an existing sign there...[comment not completed].

Mayor Wood asked someone from Transportation to address this question.

Steve Acenbrak pointed out Horton Drive on the overhead and said it is a very low volume road but the issue was that they want to be sure when a final site plan is done that they have met their sight distance requirements to come off of that road. He said it involves dumpsters and fencing and other structures to make sure they do not sight one thing that would provide an obstruction for another. He said they would work with the applicant if this is approved to make sure they do not violate any of that.

Councilmember Price said "so that is the rear road turning left onto Horton Drive not

from Horton Drive to Alpharetta Highway, okay."

Councilmember Wynn referred to another Transportation Department recommendation that stated, "Consider inter-parcel connectivity with Tract 2" and asked if that was part of this site plan. Mr. Townsend replied that is not currently in the site plan. Councilmember Wynn said she would talk to Mr. Rolader about that one.

Councilmember Dippolito said these three parcels combined are 1.27 acres and asked if the applicant would have to combine up to 0.75 acres in order for this to be effective. Mr. Townsend replied yes, that is the minimum requirement for a used car lot conditional use. Councilmember Dippolito said then anything that is done tonight would only take place after the property is combined. Mr. Townsend replied yes. Councilmember Dippolito said the site plan they are looking at now shows 0.75 acres but if they were to receive an approval for this the way it is written, they could have up to a 1.27 acre car lot. Mr. Townsend replied that is incorrect. Councilmember Dippolito asked why. Mr. Townsend replied because site plan shows 0.75 for the use. Councilmember Dippolito said but the entire property would be zoned for...[the comment was not completed.] Mr. Townsend said no, they are not rezoning anything; it is a conditional use. Councilmember Dippolito said, "I'm sorry; the whole property would have a conditional use." Mr. Townsend replied no, 0.75 would have the conditional use. Councilmember Dippolito said he did not see where it was written that way and asked Mr. Townsend to show that. Mr. Townsend placed a letter of intent on the overhead from the architect (AEC) and read a paragraph as follows: "RAI must purchase these three tracts at 1.27 acres in an effort to create a tract that is a minimum of 0.75 acres and adhering to all provisions within Chapter 10.38 – Used Automobile Sales Establishment. They will market the remaining 0.52 acres for sale to a commercial use for future development." Councilmember Dippolito said in order to limit the conditional use to the 0.75 acres; the motion would need to specifically state that. Mr. Townsend said no, they would just need to approve the site plan. Councilmember Dippolito said the resolution that is in Council's books is for three addresses; therefore, the way this is written is effectively approving all three parcels. Mr. Townsend said no, effectively it is just controlling it because the site plan says minimum allowable for used car, three-quarters of an acre.

Mayor Wood said this could be addressed later in the motion if the motion was not sufficient. He said he understood Councilmember Dippolito's concern that they want to be clear but he told him he thought this could be clarified in the motion.

Councilmember Dippolito said he had one last question for Mr. Townsend. He referred to Standards of Review # 5 - Whether the zoning proposal is in conformity with the policies and intent of the future development plan. He said the notes in that section state, "The vision and intent of this character area indicates that new development in the southern portion will follow the vision established by the Midtown Roswell LCI, which is to create a mixed-use, pedestrian friendly corridor and activity center that builds a better sense of community." He asked Mr. Townsend to explain how this proposal adheres to that. Mr. Townsend replied starting with the vision of the 2013 Comprehensive Plan, deals with re-zoning applications and changing zoning from parcel to parcel. There is a different standard related to dealing with a conditional use. Councilmember Dippolito asked Mr. Townsend if he thinks this proposal is consistent with the Comprehensive Plan. Mr. Townsend replied yes. Councilmember Dippolito asked Mr. Townsend if he thinks this is a mixed-use, pedestrian friendly use. Mr. Townsend replied he thinks there is an improvement to the property with the proposed use. Councilmember Dippolito said he and Mr. Townsend have different visions of what a mixed-use, pedestrian friendly corridor is. Councilmember Dippolito said clearly this is not.

Councilmember Price referred to page 8 of 34 from the Planning Commission minutes and said there was apparently a meeting of City employees and the applicant. She asked if any guarantees, promises or implied approval was given at that time. Mr. Townsend replied none to his knowledge. Councilmember Price thanked Mr. Townsend.

Councilmember Igleheart referred to the Site Layout Plan that states, "Min. Allowable Lot Size – 0.75 acre for Used Auto Dealership" and "Max. Allowable Lot Coverage – 25%" and "Proposed Total Lot Coverage – 7.3%" and asked how that is possible when it is almost all asphalt. Mr. Townsend replied that the lot coverage is building only. Councilmember Igleheart said, so the total impervious area is 74%. Mr. Townsend replied that was correct.

There were no further questions from Council. Mayor Wood asked to hear from the applicant.

Applicant:

Don Rolader, 11660 Alpharetta Highway, Suite 630, Roswell, Georgia representing the applicant, Ramin Roohi, presented the application for this conditional use permit. Mr. Rolader said this property is located on Alpharetta Street, south of Holcomb Bridge Road which is the old Mrs. Winner's, another fast food restaurant that has been gone and a dry-cleaner which are all now vacant. Ramin Roohi has the property under contract to purchase. If he purchases the property subject to this approval, the automobile storage facility on the northern most part of this property would cease. He intends to buy the entire property.

Mayor Wood asked Mr. Rolader to point out the location of that facility. Mr. Rolader indicated the location on the map and said it had nothing to do with Mr. Roohi; it was unrelated. Presently, the property is owned by Sanford Orkin and his son Ken Orkin. They have been the owners for many years and ground leased the property for restaurant operations for a long period of time.

Mr. Rolader continued his presentation stating that he would explain who Ramin Roohi is and why he is here before Council. Mr. Roohi has been in the import automobile sales business in the City of Roswell on Alpharetta Street for sixteen years. Roswell Auto Imports, just south of the old shopping center/antique store site is his present business. The Fulton County School Board came to Mr. Roohi and said we are going to take the entire old shopping center site and we are going to take your property for the construction of a new school. Mr. Roohi did not exactly come here voluntarily; he is coming kicking and screaming. Subsequent to that, Mr. Roohi told the school board that his trade and his business for the last sixteen years have been right here on Alpharetta Highway. They said let us see if we can assist you. His present location is three-tenths of a mile south of this proposed property. There were some discussions among the Orkin's and the school board and officials at the City and Mr. Roohi. As a result of those discussions, he was encouraged to place this property under contract. Mr. Rolader said let's all be plain for a minute; I want this to be straight; nobody at the City or otherwise said this is a guaranteed slam dunk, we want you here; all you have to do is breath and it is yours. But, what is important is that he was encouraged to proceed. Nobody at any time said we don't want your business here; we don't want you here; we will not approve it. If that had been the case, he would have gone elsewhere. He did not find this site, this site found him. Barry Major is the real estate professional on behalf of the Orkin's who continued the deal. At that point in time when this was all decided; Mr. Roohi got Brad Ripple and he filed a conditional use application and requested two variances. Those variances were not well received and they have been withdrawn. In all

candor, when the discussion was had with the City, the variances were never discussed. When they came to the City and the professional staff, they were unhappily surprised so those variances have been withdrawn. The only variance request now is a minor, minor variance right along the curbside of Horton Drive to go from 10 feet to 5 feet so the building can stay where it is and a car or two that is being prepped can still fit in there. The remainder of the property both on Alpharetta Street and on Horton Drive will have the 10 foot buffer. That is how Mr. Roohi got here; he had no idea of this and he had operated in Roswell for sixteen years and he has an impeccable business record and has never had a complaint or police problem. He is a good citizen and this is his only business. He sells imported cars for a living. He is in the process of educating his children and raising his family out of his business of sixteen years in the City of Roswell. That is how all of this started. When you look at this property and you spread out the scope of your lens a little bit, you will find that it is an intense retail area or more. To the north is a restaurant in retail zone C-3 and south is a self-storage facility that is zoned Industrial. That is his immediate back door neighbor. To the east is an office but it is zoned C-3 and to the west is a used car facility zoned C-3. The Comprehensive Plan under the present zoning ordinance shows this entire area as commercial. Mr. Roohi has made an application for commercial use. In the C-3 district, the most intense commercial district in the City, a conditional use permit is required for the operation of an automobile sales lot. This application is made under the current zoning ordinance of the City of Roswell. The UDC has no application to this property and this hearing. It does not take effect until at least June 1. The decision is being made tonight under the existing zoning code. He said he anticipates that Council's decision and recommendations will be based on the current zoning code.

Mr. Rolader said he thought that covered the variances and the other part of this is that staff has proposed four conditions that he has discussed with the applicant. They find those conditions are acceptable and they have no argument with the conditions that are in that part of the application tonight. In summary, this applicant is entitled to a conditional use permit. The criteria set forth in Section 31.1.12 is that the request bears reasonable relationship to the public health, safety, morality or general welfare. These four requirements must be the basis for Council's decision. He does not think that anyone would argue that the operation of an automobile sales facility is detrimental to the public health or that it affects public safety. It has got to generate far less traffic than a restaurant or a drive-in restaurant that might be located at that location. He does not think anyone would argue that it affects the morality of the public because it is not a massage parlor or a strip club. It does not interfere with the general welfare. That is a broader term and said he wanted to take that a little bit further in that statement. He said he could not imagine it affecting the general welfare in a negative way. He has never heard anyone say "I just can't stand to eat at Hugo's or go to the dentist near where I could buy an imported car; there is a disconnect there; it just kills the mood." He said how about, "I just can't send my kids to school anywhere near an automobile sales facility?" He said he has never heard that in his life. There is no negative impact on other businesses and he did not think they could explain to him that there could be. It does not impact parking; it does not block the view. There is little traffic generated in comparison to any other use. It does not generate excessive amounts of water or sewage capacity. There is no light pollution. It does not generate crime. Mr. Roohi has had a clean record for sixteen years. If the stormwater storage facility is done, it will certainly reduce stormwater runoff where there is a problem to the south now. On the other hand, denying this conditional use application takes away Mr. Roohi's business which he has worked sixteen years to build. For the property owner, it prevents a sale and denies him a reasonable economic use of his property. These store fronts have been vacant for a long, long time. Mr. Rolader said he had two points to make. First, within a half mile of this facility on Alpharetta Highway there are eleven used car sales facilities. He

said they are not increasing the number of used car sales facilities if they allow Mr. Roohi to move from location one to location two; they will be replacing his but that is all. He said why are those dealerships any different than this location; there is no difference. You may not discriminate against him based on, "we don't really think this is the right use here" or "we envision a walkable pedestrian friendly corridor and activity center." Those are not grounds on which Council must make their decision. It just does not fly that way. He said he would give a better example and said this property has been on the market forever. Barry Major is one of the most capable commercial realtors that he knows and he has used him with his clients and with his family. If someone had a different use for that property that might be more attractive to some, there has been nothing preventing them from coming in and putting that property under contract in the last two or three years. If that pedestrian friendly facility were in the process of development, somebody would have bought this and proceeded. He said his honest feeling is in that area on either side of the road, the only way to create that kind of environment that the Midtown Roswell LCI talks about and which is not a legal reason to deny this application but the only way to do it and make it work is for the City to buy the property, grade it flat, develop a plan and offer it for development. He said he would site an example nearby. He said there was an ugly gas station and strip center in downtown Alpharetta next to the ugly City Hall. That city came in and bought it and knocked it all flat. They designed a new City Hall and got a library to come in there and they have offered the rest for retail and office development. They took the bull by the horns. He said the reason he is saying this is not to shame or degrade them but his reasoning is that it is too narrow. All down Alpharetta Street, because of the way the City developed there are very narrow retail strips on either side of the road that then blend into older residential neighborhoods. They are not wide enough to put a substantial use and a substantial parking lot in order to make it work. It is linear and needs to be fatter. That is not to say that it cannot be done. He looks forward to an opportunity at some point in this City to come forward with part of it and see it work. But he has serious reservations about it because of its shape and history and the fact that it is owned by a myriad of little bitty property owners. To assemble any part of it is a real challenge. All those people must be gotten together and kept happy long enough to get it zoned and then get it bought without somebody dying, leaving town or going bankrupt. It is a real challenge. Good things happen if this is approved. It gets two obsolete buildings removed, kills curb cut on Alpharetta Street, and puts a fresh facelift on the third building that is to remain. It does not increase the number of dealerships on the street. It replaces his current business. It will not affect the character of the area in a negative way. There will be trees, landscaping and water retention that was not there. The argument is, while it may not be beautiful and may not be a glorious thing in their eyes, it is a step in the right direction. They are knocking down buildings, putting grass and trees where there were none before. They are putting a man in there who is a business man. If this LCI that is conceived works, he is not going to "just sit there and go I'm not selling my car dealership at any price." When the right size dollars come along he would be the first in line. He is not foolish but that day is not here. But for the property owner and the business owner who wants to be the property owner here; the day is here and the day is today. What do we have if this is not done? There will be three old empty buildings with no increase in water retention which apparently is needed from what runs downhill from there. There is going to be an old eyesore there and there will not be any improved landscaping. There will still be all of the curb cuts if somebody uses them for some other purpose that works. Vacant buildings on vacant property in the City of Roswell do nothing to improve it. Losing an independent taxpaying business owner does nothing to improve Roswell. The real solution to this application is to approve it and knock down two old buildings; put the third building in good order, put the property back in use, make it look better and let future development buy it out for a profit when it comes along. We gain now and we gain later. That is a win, win situation. He said those were all of his feelings

and he would reserve some time for rebuttal. The frustration to him for Mr. Roohi is that this just all dropped on his head, not on his lap but on his head. He did not want to go anywhere; he is fine and happy and everything is running well. Then the system comes in with a completely legal right to do and condemns him and takes him. He said that is his story for Council. This conditional use; the criteria are the things that he talked about with health, safety, welfare and morality. That is where their request lies. They would like for Council to do that and grant the small variance that just makes the property work and does not affect anybody poorly. As a technical note; from listening to Transportation's comments; he said we migrated the curb cut on Horton Drive substantially away from the intersection to meet their concerns at the time of going for final plat approval. They have tried to take into consideration all the things that the City expressed as concerns and are trying to get to point B. He noted in this presentation that the staff recommendation is for approval both for the use and for the variance. He thanked Council for their time and said they would be glad to answer any questions.

Mayor Wood asked if he understood correctly that they have to get a variance to leave a building where it is. Brad Townsend pointed out a location on the overhead screen and said the variance requirement that they are not meeting in that location would require a 10 foot landscape strip and the existing is 5 feet. This is not moving the building one way or another; just that he would not be able to get a...[comment not completed]. Mr. Townsend said they wanted the site to be brought completely up to code which would require 10 feet of landscaping. Mayor Wood said but to bring it up to code, he would have to demolish part of the building. Mr. Townsend replied no, he would have to demolish part of the asphalt and would not be able to get the car completely around the building in that location. Mayor Wood said now he understood; this is to allow less landscaping to get interior circulation. Mr. Townsend replied that is correct.

Mayor Wood called for Council questions.

Council questions to applicant:

Councilmember Orlans said there was some conversation at the DRB about the security pipes being behind any landscaping on the front versus out in front on the street on the Alpharetta Street side. He said also and this might be a question for Brad Townsend; on the site tree plan, it looks like some shrubbery along Alpharetta Highway that does not go to the corner of Horton and Alpharetta and asked if that is going to be finalized through DRB. Mr. Townsend replied yes and they would review the landscaping as well. Councilmember Orlans said it could be modified from what is showing on this part of the site plan. Mr. Townsend replied, right. Councilmember Orlans said because it does not go down to the corner at all. He said back to his question about the discussion on the security pipes. Mr. Townsend said staff originally brought that up because when they deal with automotive; they like to make sure they are on the site and not driving over the landscaping and things of that nature. The revised site plan shows a double hedge row material which would be secure enough and the piping would not be necessary. Councilmember Orlans said it would not be necessary at all? Mr. Townsend replied, right. Councilmember Orlans said they are showing it, but that is not guaranteed and asked if it is going to be finalized by DRB. Mr. Townsend said it would be finalized by DRB. Councilmember Orlans asked Mr. Rolader to comment about what is showing on the plan that does not go down to the corner of Horton and asked for the applicant's perspective on that landscaping.

Don Rolader asked Brad Riffle to address that question.

Brad Riffel with AEC, Inc. stated his address as 50 Warm Springs Circle and said

what is shown is basically what came out of the courtesy DRB hearing in terms of eliminating the pipe rail and putting some double row hedge in front of the cars. It was not explained that they needed to go beyond the grill of the car but they could improve that and take it to the corner. There are some things in that corner that they have to work around with regards to power poles, guide wires and utility boxes.

Councilmember Orlans said the DRB are who they would need to work with but he was suggesting that they perhaps look at it before going back to them, for that corner too.

Councilmember Price asked for the acreage of the lot that the applicant is vacating. There was an inaudible reply from an unidentified person. Councilmember Price said so just under what this would be. She referred to the conditions and asked are we maximizing the number of cars to be located there, or is that a reasonable condition.

Don Rolader replied it is reasonable but by no means is it maximizing. A lot of the competing lots don't have any landscaping; they just pile them in there. This has lanes and parking spaces and is regimented and works. It is not a homerun but enough to get them in there and make it work.

Councilmember Price told Mr. Rolader that perhaps he misunderstood her and she asked are we able to put a maximum number of cars in there by number. Mr. Rolader said he thought the City would have to answer that.

Mayor Wood said in order to clarify this; there are a certain number of parking spaces shown. He asked if they could park more cars on this on a regular basis than the number of parking spaces shown. Brad Townsend replied they could but they would not meet the requirements of the current code to be located in designated lined spaces.

Mayor Wood asked if they would be in violation if on a regular basis parked in a non-parking place. Mr. Townsend replied yes. Mayor Wood said and they could be cited. Mr. Townsend replied yes. Mayor Wood said then that would be the limitation on parking, the number of spaces shown on the site plan. Mr. Townsend replied correct.

Councilmember Price said as a corollary to that; there are storage cars now on the northern Tract 1. She asked what prevents that from being used as storage in the future. Mr. Townsend replied code enforcement. She asked what would be the difference of that being a vacant lot with storage as compared to now. Mr. Townsend replied the way they control that as storage is that the current online car dealer that uses it is not allowed to sell from that location and the nature of this business is that they are usually turned in by a competitor for selling from that lot. Code enforcement would go in and tell them they are supposed to be storing there, not selling and have them remove the signs. Councilmember Price asked what prevents the applicant from renting to them on that location. Mr. Townsend replied "by you identifying that you are not going to allow the used car more than three-quarters of an acre on this approval." Councilmember Price said but that does not include storage. Mr. Townsend replied correct and said by Council conditioning that storage of cars is not allowed there. Councilmember Price asked "why can't we do that now?"

Mayor Wood asked Don Rolader if that could be a condition that the applicant would not store cars on this lot. Mr. Rolader replied he would need to talk with the applicant but he understood the question.

Councilmember Orlans said the applicant has a potential use for the third lot and

what he read says if it does not come through; it would be leveled as part of this whole project and would be grassed. He asked if that was a valid statement. Don Rolader said he did not think it would be grassed; it is asphalt today and it would be stabilized. Councilmember Orlans asked if the asphalt would stay. Mr. Rolader said the asphalt would stay.

Councilmember Wynn asked Don Rolader if he had seen the revisions of the four conditions. Brad Townsend said he did not think he had seen them. She asked Mr. Townsend to display them on the overhead for Mr. Rolader to make sure he understood the revisions. She said there is also a fifth one and she thought she gave a copy to Mr. Riffel for Mr. Rolader. Don Rolader stated that he had reviewed the changes. Councilmember Wynn said the fifth condition is on the bond of the landscaping that reads "The owner/developer shall provide a 2-year landscape bond to the City of Roswell in an amount determined by the City arborist to ensure the survival and maintenance of all landscaping shown on the improved plans prior to the CO." She asked if Mr. Rolader was comfortable with that condition. Mr. Rolader replied in general statement they are in agreement assuming that the arborist would make a fair and reasonable determination. Councilmember Wynn said that would be between him and the arborist.

Councilmember Wynn referred to the Department Comments and said a comment was made by the Transportation Department that states "Consider inter-parcel connectivity with Tract 2." She asked if the applicant has any problems with that being a condition of zoning.

Mayor Wood said for clarity, they should point out Tracts 1 and 2 and the parcels they are talking about combining. Mr. Riffel referred to the overhead and pointed out Tracts 1, 2 and 3 and the location of the inter-parcel access. Councilmember Wynn said someone had told her it was not on the plan and she thanked Mr. Riffel.

Councilmember Wynn said another thing that was a little stickler is that she made a condition that the conditional use would be 0.75 acres maximum because one of the conditions is that they do not want it to go into the vacant lot and she asked if the applicant was comfortable with making it a maximum of 0.75 acres. She said it is just a formality; that is more or less what the site plan is.

Mayor Wood said he thought Mr. Rolader said he needs to talk to his client. Mr. Rolader said yes. Councilmember Wynn said "About the 0.75 acres?" and said she thought Councilmember Price brought that up.

Mayor Wood said the point is that they do not want cars parked on the northern lot whether they are storage or for sale. Because if they are for storage they sure look like they are for sale if they are right next to a car lot. He said Mr. Rolader is going to check on that.

Don Rolader asked if there were not two questions asked.

Councilmember Wynn said the other question was about the storage of cars on the northern lot and said what she thought she heard from Councilmember Price, "is not...is rental of that space for storage of cars rental...of it...of storing cars on that northern lot?"

Mayor Wood said whether it is rented or for the applicant's own use, Council does not want to see more cars parked there. They would like to see the northern lot for something other than parking cars; other than for sale.

Mr. Rolader said those are basically two interlocking questions.

Mayor Wood said yes sir and you will need to check on that.

Councilmember Wynn said another question Councilmember Dippolito brought up was about renovation of the existing building.

Mr. Rolader said Brad Riffel would address that issue.

Mayor Wood asked them to point that building out on the map.

Brad Riffel pointed out the existing dry-cleaning building and said plus or minus 1,000 sq. ft. He said Mr. Roohi's current business has a two-service bay area where he services the vehicles that he purchases. This is not an off-the-street servicing. Mr. Roohi would like to have that same condition here. They have determined that the back of the building is adaptable to putting in a service bay with doors facing to the side but in order to have two; they would have to extend the back façade, twelve or so feet towards Horton to accommodate for the second service bay. That would be the extension.

Mayor Wood said this was previously a dry-cleaner and asked if there would be any facade changes there. Mr. Riffel replied no, sir. The remaining facade is going to be given some nice paint and the applicant would probably punch some holes for windows on the side to see out onto the lot. Mayor Wood said there would be minor changes to the existing structure and an addition to the rear and he assumed that addition would have to go before the DRB. Mr. Riffel replied that is correct. Mayor Wood asked Councilmember Wynn if that answered her question. Councilmember Wynn replied yes, sir.

Councilmember Diamond referred to the inter-connectivity issues and said she did not see anything between Tract 2 and 3 and asked if there is a rear access onto Horton on Tract 3. Mr. Riffel said that is correct and he pointed out a curb-cut on the overhead and said it would probably have to be relocated based on where they place the parking. He pointed out the existing curb-cut for Tract 3 on Horton. Councilmember Diamond thanked Mr. Riffel.

Councilmember Dippolito referred to the lot that would remain vacant and asked how the stormwater would be handled and if it would be controlled by the underground storage.

Mr. Riffel replied it would not be and he pointed out underground storage on the map and said it is an underground system with permeable pavers that will just be for the three-quarter acres. He pointed out another area on the overhead and said there is a draining basin there where most of the water goes into now and their intention is to saw-cut the asphalt back enough to grade a swell and place another structure that will capture the sheet flow that comes off the pavement that goes directly into that structure. The next development that comes along will be obligated to provide the stormwater management.

Councilmember Dippolito said since this is all part of the same development, are they not required to meet the detention and stormwater requirements on this site as well.

Mayor Wood said that question should be addressed to Mr. Townsend. Mr. Townsend said it should be addressed by the City Attorney.

David Davidson said if they are going to be working on this as one project with

tearing down the other building, yes they would have to meet stormwater for any kind of land disturbance they are doing.

Councilmember Dippolito said this plan showing the detention is not accurate and they would need to provide additional detention on the vacant parcel as well and water quality.

Mr. Davidson replied a lot would depend on what is there after it is torn down. He said he is not an engineer and does not know but perhaps Stu Moring could discuss how that would work.

Mayor Wood asked if it would be fair to say that before they get their final approval, they would have to deal with stormwater on both parcels as part of this whole project. The stormwater does not have to be complete at this stage in the plan but before they move forward with CO, they would have to deal with all of this.

Brad Townsend said they are able to get the CO for the three-quarters of an acre for the used car use and when the remaining parcel is developed, it would have to deal with this detention and water quality. They could remove the building and any little asphalt to make sure the sheet flow stops and not trigger a water requirement dealing with stormwater because they are not increasing any impervious on the property.

Councilmember Dippolito said then there is not enough land disturbance on that parcel to require detention and water quality. Mr. Townsend said that was right, it would probably be under 1,000 sq. ft. If removing the building and leaving the foundation...they are actually carving out and putting in new landscaping, planter islands and things of that nature, they are going to trigger the water detention requirements.

Mayor Wood said it is fair to say that all of these things will be dealt with in the normal course. Mr. Townsend said correct, for the development of that property.

Councilmember Dippolito said the building is not one of the most attractive buildings on that street and he would think the applicant would want to do something to improve it and asked if it would only be receiving a coat of paint.

Don Rolader said if they go further than that and make architectural improvements, they would then encounter a whole approval process that they are not presently involved in. The school system is ejecting the applicant in late May so his and Mr. Riffel's approach to this has been "do not rock the boat". They will certainly take the one remaining structure they have and make it more appealing because they will paint it in pleasant colors and put some windows in. Beyond that, they would be wading into a pit that they do not know how deep it is. Their present intention is not do any architectural changes to the front or the side exterior of the building; it would be in the rear where a twelve foot bay would be added to prep the vehicles for sale.

Councilmember Dippolito said he did not understand that because they are required to get approval to do the addition on the rear so it is still the same process.

Mr. Riffel said it is a matter of cost and what the client feels is appropriate for him. Mr. Roohi seems to think the building is attractive enough and wants to just freshen it up with some nice paint and put the windows on the side and proceed in that manner. Councilmember Dippolito thanked Mr. Riffel.

Councilmember Diamond referred to the landscaping across the front and asked if there would be any landscaping in front of the property that is being demolished. Mr.

Riffel asked if she was referring to Tract 3. Councilmember Diamond replied yes. Mr. Riffel replied that currently there is a little where the City may have planted a few small crepe myrtles but that is about all there is. There is some grass beyond the sidewalk but it is primarily a couple of crepe myrtles and there is no intention to extend their beautification onto that other tract. Councilmember Diamond asked if it is going to look like they are connected to each other or will they look totally separate soon after it is purchased. Brad Riffel replied possibly, given the look that they are going to be presenting on their frontage as opposed to the other frontage. Councilmember Diamond thanked Mr. Riffel.

Councilmember Price said she was curious about the maximum allowable lot coverage that is 25% and asked if all three tracts were used in computing that. Brad Riffel replied no, the 7% that is shown for lot coverage just applies to the three-quarters acre. Councilmember Price asked if lot coverage is just buildings. Mr. Riffel replied just the building footprint. Councilmember Price said it was hard to see how the pervious area of Tracts 1 and 2 makes 25%. Mr. Riffel replied it is 74%. Councilmember Price said, "My eyeball doesn't bring that up to 74%."

Mayor Wood asked if she was talking about lot coverage. Councilmember Price said no she was talking about total impervious coverage. Mayor Wood asked if staff had checked the numbers for this. Brad Townsend said yes and they are accurate.

Councilmember Price asked if someone could point out what is pervious in Tract 1; what is not paved or building. Brad Townsend referred to a blue line on the map on the overhead and said it is green.

Councilmember Dippolito asked if that is 24% of that area.

Councilmember Price asked if that includes some of Tract 3 in the calculation.

Brad Townsend referred to a location on the map on the overhead and said to get to the three-quarters of an acre they have to put a new property line there and "there is a 5 foot landscape strip adjacent to it; 10 feet in the front, 10 feet here; the variance for 5 feet over here, dumpster located here, this landscaping, 10 feet here, planter island there and an inlet for the water to go down to the detention probably in that location."

Councilmember Price said if Mr. Townsend was convinced that was 75% then she was happy. Mayor Wood said no, it is 24%. Councilmember Price said no, she meant 74% of the other.

Councilmember Dippolito said along those same lines, he was looking at the landscape plan and thought the landscape strip they were just talking about on the northern edge of the property shows a few trees but no hedges whatsoever. He asked if that would only be grass and three trees and nothing to screen the cars. Mr. Riffel said that is currently correct.

Councilmember Dippolito asked if that would also be the case with the south property line that shows a few trees and grass and also no hedges to screen the service area so that someone driving down the street would be looking at the back side of a service area. Mr. Riffel replied there is some landscaping; some existing junipers and he pointed out existing trees on the plan ranging from 7" to 9" caliper that they would be saving along that strip. Councilmember Dippolito said in the picture, the junipers look like they might be 6" and the answer to the question is really that there is no landscape screening on the sides of the site. Mr. Riffel said they intend to embellish the landscaping given the visibility from that corner and he pointed to a location on

the plan and said they would beef up the landscaping on this corner and along that side for their DRB submittal. Councilmember Dippolito said, but you didn't want to submit that and asked what they plan on increasing the landscaping to. Mr. Riffel said they had not done that yet and he would get with the client to find out what his vision is. Councilmember Dippolito said but your intention is to beef up the landscaping there to screen that side of the building. Mr. Riffel said they would not be screening the building; the pavement there is 3 feet to 4 feet above road grade and on a slope. Councilmember Dippolito said it looks like there is room for shrubs or some sort of screening along the edge of the pavement and said he liked Mr. Riffel's idea and encourages that. He asked if adding additional landscaping could be an additional condition.

Councilmember Wynn asked, "As approved by DRB?" Councilmember Dippolito said, "As approved by DRB."

There was no further Council questions.

Mayor Wood opened the meeting for public comment.

Public Comment:

Sue Dupart stated her home address as 500 Shadow Court in Roswell. She expressed concern about the long term plan of removing the curb-cut from the undeveloped property and asked what would they do in the future with commercial development because there would be teachers and mothers dropping off children at the school and without an exit onto a feeder road would compromise the integrity of the ethics of the City in promoting developable land.

Mayor Wood asked which exit she was referring to. Ms. Dupart replied they are eliminating the curb-cut on the undeveloped property. Mayor Wood said no, there will still be a curb-cut on Highway 9 and on Horton.

Ms. Dupart thanked Mayor Wood and continued her comments and asked if there would be 18-wheelers pulling the cars down Horton Drive

Brad Townsend replied he would have the applicant answer but his understanding is that the cars are delivered individually not by 18-wheelers.

Ms. Dupart asked if that would be a stipulation in the case the applicant retires and someone else would have a car lot there. She said because on Mansell Circle, 18-wheelers deliver to where cars are stored for on-line and those residential roads are being used for car traffic transportation. After the school is built near this location, parents will be driving in that area and that will create a lot of interesting traffic.

Councilmember Wynn asked Ms. Dupart if she was referring to a car delivery truck parking on Horton or Alpharetta Hwy. Ms. Dupart replied yes to unload cars. Councilmember Wynn asked if she was talking about parking on a public right-of-way to deliver cars.

Ms. Dupart said if they are not delivering those cars now why would they want to increase the burden of retail business on that limited access. Councilmember Wynn said she was just trying to get this straight and asked Ms. Dupart if she meant trucks that are delivering cars and they park in the median or turn lane of Alpharetta

Highway or Holcomb Bridge or was she asking that there be no car delivery trucks at all even if they come onto the property to deliver the cars. Ms. Dupart said the applicant's stipulation is that he is not going to have an 18-wheeler delivering cars. Councilmember Wynn said she has not yet heard from the applicant on that. Ms. Dupart said if that is what the plan condition is and they wrote a long-term plan in to prevent a different type of unloading cars then there would not be future traffic problems like exists on Mansell Circle where the 18-wheelers park and unload for cars online in that office professional building. Councilmember Wynn said she would check with Mr. Rolader on that. Ms. Dupart thanked Councilmember Wynn.

No further public comments. The public hearing was closed.

Mayor Wood asked to hear rebuttal from the applicant.

Applicant Rebuttal:

Don Rolader said he would first address the public comment and stated at no time would they use auto carriers to deliver automobiles to their premises. There would be no more than one or two on a flat bed or similar truck. They would not have an issue with restricting auto carriers if that was a concern. They buy locally one or two vehicles at a time. That is how they work.

Mayor Wood asked staff if there are any existing rules or regulations to prohibit people from parking in the road and said he would not want additional conditions if something is already controlling that.

Brad Townsend said the parking requirements are usually on residential streets he thought for 24 hour type numbers. If there is an auto carrier delivering and there is a code enforcement or law enforcement scenario, the auto carriers are usually gone by the time the call is made and they go out to try to enforce something.

Don Rolader continued his rebuttal and said regarding the questions about the use of the upper most piece of the property; Mr. Roohi's intention when he filed this zoning application was to have the entire property zoned for the use. However, Mr. Roohi understands the concern with that piece of property and proposes in its present confirmation that cars neither be stored there for anyone else or for him at this time and should he present a plan in the future for expansion, his expansion would be subject to the City's approval. Mr. Rolader said the zoning application was for the entire tract if he understands that correctly.

Council questions for applicant:

Councilmember Wynn said she assumes there is no storage of cars not only on the vacant property but all of the property. She understands he would be storing his cars but she is talking about other than his cars. Mr. Rolader said that is correct; they do not want anybody else's. Councilmember Wynn said on the vacant piece of property there would be no storage of cars at all. Mr. Rolader replied yes until Mr. Roohi comes back to the City with a plan that shows an expansion of his business. Councilmember Wynn asked Brad Townsend if that should be made a condition. Mr. Townsend replied yes. She asked if someone could help her out with that.

Councilmember Wynn asked about the maximum 0.75 acres for the used car lot. Mr. Rolader said in a way he just answered that. Brad Townsend said that was his same answer. Councilmember Wynn said so you would have no problems with that. Mr. Rolader said only with the understanding that they wish to zone the entire property for conditional use; however for the present time they will restrict any storage or display or otherwise putting of cars on the upper tract until such time as they present a plan for that and it is approved by the City. Effectively, today it stays vacant but if Mr.

Roohi's marketing plans for that property fall through and he is unable to develop it for another use, then he would like the opportunity to come back and say "I need to do something there; here are my plans...if you should approve." Councilmember Wynn asked Mr. Townsend if when they changed condition #4 to "final plat is required prior to CO" that would help with the 0.75 acres maximum. Mr. Townsend replied yes.

Councilmember Dippolito addressed a question to David Davidson and said with the condition as he presented it, does that infer that the Council is obligating a future Council to approve a plan should he bring it forward.

David Davidson said Council would be approving the use of it with the condition that he brings back a plan that is acceptable. Therefore, the used car would be basically allowed but they would have to bring a plan back to Council that is acceptable.

Mayor Wood asked Mr. Rolader if that could be cleaned up so they would just be doing Tract 1 and 2 and not making a decision for use on Tract 3. He said this is complicating things.

Don Rolader said his understanding is that his client wants to zone the entire property for the intended use for his automobile dealership and is willing to restrict the development or use of that tract; unless and until such time that he presents a plan to the City which is approved by the City for that expansion.

Mayor Wood asked if he was sure he wants to do that. Don Rolader replied, "I'm sure he does."

Councilmember Wynn said to Mr. Rolader that her concern is that the site plan in front of Council is for Tract 1 and Tract 2. That is what the applicant was going to use for the used car lot. That is where Councilmember Dippolito and Councilmember Price had some concerns because they want to make sure that the maximum that he could do was 0.75 acres. She is now hearing from Mr. Rolader that the conditional use is for all three tracts but the applicant is not going to use all three unless he comes back to the City. She said I think we are digging a hole somewhere if we look at it that way. She said the site plan looks like it is for 0.75 acres for the used car lot. She read from the letter of intent, "they will market the remaining 0.52 acres for sale to a commercial use for future development." She said if Council puts it as a condition of zoning for this used car lot then this statement is not correct because they don't have to sell it to him because he already owns it. She said she was having a difficult time with that.

Don Rolader said he understands her concern. Councilmember Wynn said if there was some other kind of language that they could have. Mr. Rolader said that would be a good idea.

Mayor Wood said it would be a good idea for Mr. Rolader to talk with his client.

There was silence while Mr. Rolader talked with his client.

Mr. Rolader said that Mr. Roohi would like to address Council personally.

Applicant:

Ramin Roohi stated his home address as 1197 Alpharetta Street in Roswell, Georgia. He said the only reason they have this confusion is because of the situation he is in with imminent domain. This piece of property, the three parcels, financially is a big burden on him so he is trying to be able to market the half-acre and if he cannot sell it

in the near future, combine it with the car lot. At this point, financially, the money that he received for his piece of property is not enough to do the whole three parcels. He is asking for the chance to add this in the near future if he cannot get a qualified business to go into that half-acre.

Mayor Wood told Mr. Roohi that Council is not saying that he does not have the chance. They are saying they are not pre-approving it. They are saying that he would have to come back and go through the process again to get the northern parcel approved also for a car lot. They are not removing that possibility; they are simply saying that he would have to come back.

Mr. Roohi said with all respect, since it is only a half an acre, if he come back in the future, they would tell him it is small and he cannot add it to the existing. That is the only thing.

Mayor Wood said he would address that question to Mr. Townsend and asked if the applicant came back and wanted to add the northern parcel to the two southern parcels, would he meet the minimum lot size.

Brad Townsend replied yes, if they are combined with unity of title with a combination plat and combines them as one business entity. He could not separate them into two different lots or have two car lots.

Mayor Wood told Mr. Roohi that he would have to have one bigger car lot but he could come back to the City for that. Mr. Roohi said as long as the City would guarantee that opportunity, he did not have a problem. Mayor Wood said the opportunity is guaranteed. The approval is not.

Councilmember Price said she had a question.

Mayor Wood said he wanted to first make sure Mr. Rolader had finished and thought he had something else.

Mr. Rolader said upon his discussion with Mr. Roohi, that Mr. Roohi would be satisfied if the three-quarter acres is appropriately approved at this point in time.

David Davidson noted if the applicant came back under the UDC, he would not be able to expand a non-conforming use and asked Mr. Townsend if that was correct. Mr. Townsend said correct.

Mayor Wood apologized and said he was wrong that the applicant could not come back.

Brad Townsend said if effective June 1, under the UDC, this use could not be asked for.

Mayor Wood said the applicant would have to go through a rezoning and that would be difficult. He apologized again and said he was assuming the law would carry forward but because the law is changing, that opportunity is no longer there. He said if the approval is not gotten tonight, it would be a much tougher hurdle. He asked if Mr. Rolader would like to go back and talk to his client. Mr. Rolader said absolutely.

There was silence while Mr. Rolader had a discussion with Mr. Roohi.

Don Rolader said that Mr. Roohi would like the entire 1.25 acres zoned for the proposed use.

Mayor Wood said he had a suggestion to Mr. Rolader because this is a big twist on the site plan. He said no one likes to do this but if we are going to do the entire parcel we need to look at a site plan for the entire parcel, therefore a request for a deferral would be in line given the change in the approach here.

Don Rolader asked the proposed date for a deferral. Mayor Wood said they could work with him.

Brad Townsend asked, "60 days?" Mr. Rolader said, or quicker.

Councilmember Wynn said the next Community Development meeting is April 14.

Councilmember Orlans said he had a question for clarifying some of this. He said going back to what was presented earlier; if the whole tract is zoned according to the use now and in a condition he says no cars are stored or for sale on that upper piece of property at the current time. He asked Mr. Davidson if the applicant has the right to have his lot even after the UDC and it would be a matter of coming back and adjusting a site plan to expand the parking which would allow the storage of cars into that third parcel. He asked if that would accomplish what both sides are trying to say that they would defer to try to accomplish.

David Davidson said one of the conditions is that it is going to be a separate tract of land before he gets a CO for those properties.

Mayor Wood said this Council could vote that way but he was not sure there would be a majority vote that way.

David Davidson said Council could vote to allow the use for the whole thing as long as it is combined with this property.

Mayor Wood said there has been a lot of consideration of this and a lot of study but it seems to be changing and he thought it would be appropriate to consider this change but it is a big enough change that it would be helpful for all parties to go back and look at it.

Mr. Rolader asked what would be the earliest date for a next meeting. Brad Townsend replied April 14.

Mayor Wood recognized Councilmember Price for questions.

Councilmember Price said her first question was answered in that the new property line would be recorded prior to any CO. David Davidson said prior to a CO, which is what the condition reads now.

Councilmember Price said she had a comment for thought for the applicant. She said she thinks it is dicey that this will get approved tonight as it is seen. Her sense now is that there will not be much support for that but she could be wrong.

Brad Townsend said staff would be evaluating their assessment of the property too if it goes all...[remainder of comment inaudible].

Councilmember Price thanked Mr. Townsend and said, "And I guess one of your comments earlier was that he is being displaced. There was a net zero of used car lots on the street which I think everybody was willing to consider was a fair result from the school being built there which was a slight increase of what, 0.7 to 0.75, but

I think a huge whole scale increase in the used car lot footage on that street is a real tough pill to swallow.” She told them they could do whatever they want but thinks their best shot is tonight.

Mayor Wood said that does not mean he may not reconsider what he brings back but there are a lot of changes here and he told Mr. Rolader it is appropriate to have further discussion with his clients and with the staff. Mayor Wood recommended a deferral.

Councilmember Diamond said she would encourage the same thing and said she agreed with Councilmember Price. Councilmember Diamond said, “Having been one of the people that was contacted by the school board on this property...I am always very careful not to speak for my counterparts but I was very clear that I had no interest in seeing us add to the car lot situation. My understanding of the final resolution with the school board was there is no promise that you will get relocated; there is no opportunity and to the point where they were willing to walk away from that lot and not make it part of the school deal if that was one of the hang-ups. And my understanding was that in the closing of it, that was not part of the deal. This has nothing to do with our appreciation for Mr. Roohi as a business owner or how he runs his business. It is not a reflection on him but the visual message that this conveys that we have as a Council over the years been very specific about how we wanted this to redevelop and the message that this sends for positive redevelopment in the core area of our City; I agree with Betty. I think it is pushing it where it is and coming back with more is going to be a very difficult thing.”

Councilmember Wynn said she was having trouble with this now and before thought it was tit for tat. She suggested that the applicant take a deferral and see if there is something that could be worked out. She s

A motion was made by Council Member Wynn, seconded by Council Member Price, that this conditional use and concurrent variance for the purpose of using the property for a used car establishment on Alpharetta Street be deferred and be placed on the Mayor and City Council agenda for 4/14/2014. The motion carried by the following vote:

In Favor: 6

**7. Approval of a License for Land Use for Roswell Provisions.
Alice Wakefield, Community Development Director**

Community Development Director Alice Wakefield presented this item stating this is a request to approve a License for Land Use for Roswell Provisions to allow for the existing tables and chairs to remain in the sidewalk which is in the City right-of-way. The Legal Department has provided a draft document with attached photographs, Exhibit “A” showing where those structures are currently located. Staff requests approval of this license.

Mayor Wood asked City Attorney David Davidson how this differs from the current licenses that the City issues for restaurants. David Davidson replied those are so they can service alcohol; this just lets them have something in the right-of-way. Mayor Wood said he understands the use, but asked about permitting and rules. David Davidson said this is just a license to allow them to put items on the sidewalk.

City Administrator Kay Love said for a point of clarification that the sidewalk café license requires that an establishment or licensee be a restaurant. This entity is a retail establishment; not a restaurant and therefore that is not a lane they can travel in for a sidewalk café license. People do not order food and the food is not served by

this establishment. People could take food or just sit out there on this furniture. Mayor Wood asked if this license could be revoked in the same way as for a restaurant if they did not comply. Ms. Love replied that is correct. Mayor Wood said they would still have to leave the handicapped accessibility and this is expanding a license for a sidewalk. Ms. Wakefield replied yes, sir; we are. Mayor Wood asked if this is available in the event someone else wants to offer a similar request and asked if this is creating a general policy. Ms. Wakefield replied this is creating a general policy and they will address on a case by case basis. Mayor Wood asked if someone else who is a non-restaurant came forward with a similar request, would the City use this same criteria with the same rules to review their application. Ms. Wakefield replied yes, sir; we will.

Council Comment:

Councilmember Orlans said for previous licenses for restaurants they were provided a site plan. He said they do not have a site plan here showing the dimensions and he could not tell from these pictures where things are. There have been some issues there with blocking the sidewalks and also they had tables or benches in front of the bike rack. He said he does not have a view here tonight that he can approve. All he has are pictures and he knows what it looks like but he does not know if it fits in and has the right amount of sidewalk space. He said he was bewildered because there was nothing here to approve.

Mayor Wood said he believed Councilmember Wynn would be making a motion to defer. Councilmember Wynn said yes, sir. Mayor Wood asked to have the motion first before spending time debating this.

Councilmember Wynn said she would make the motion to defer and they could address the issue that Councilmember Orlans brought up at that time.

Motion: Councilmember Wynn made a motion that this License for Land Use for Roswell Provisions be deferred and be placed on the Mayor and City Council agenda for 4/14/2014. Councilmember Dippolito seconded.

Further Council Comment:

Councilmember Price said she hopes in the interim that there will be discussion about all items in the right-of-way such as planters, bike racks, etc.

There was no further Council comment.

A motion was made by Council Member Wynn, seconded by Council Member Dippolito, that this Item regarding this license for land use be deferred and be placed on the Mayor and City Council agenda for 4/14/2014. The motion carried by the following vote:

In Favor: 6

Public Safety Department - Councilmember Jerry Orlans

8. 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. (Second Reading)

Presented by Rusty Grant, Chief of Police

City Attorney David Davidson conducted the second reading of and 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 of the City of Roswell 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 second reading.

Police Chief Rusty Grant presented this item and noted that he was not at the meeting for the first reading but he would address any questions that Council had about the ordinance. He said the purpose of this is two-fold; to reduce crime by giving the Police Department some additional tools to utilize and also puts the jurisdiction of these ordinances within the Municipal Court. Essentially, this will modify the current disorderly conduct ordinance and creates new offenses to be added to the city's Code of Ordinances as follows: Vandalism; Panhandling; Loitering and prowling; Prostitution; Public intoxication; Hindrance of a police officer; False

representation to police, any city department, employee or agent; Loitering for the purpose of using, possessing or selling any controlled substances; and Petty Trespass.

Mayor Wood said his understanding from the past is if there are any violations of these offenses, they would be Fulton County or State violations. And these could now be prosecuted in the City of Roswell.

Chief Grant said with the exception of the disorderly conduct, that is true and there are some additions to the current disorderly conduct that were not in the previous ordinance.

Mayor Wood asked for Council questions.

Council Questions:

Councilmember Dippolito said he understands that most of these items are currently in the Fulton County Code and asked if that is correct. Chief Grant said that is correct but David Davidson could answer that question better. Councilmember Dippolito said the second half of his question is if we are adding anything here that is not currently an ordinance. He said in other words, does this add a new law or potential violation that is not currently addressed elsewhere. He asked if all of these items are something that we are just pulling into the City's control.

David Davidson replied that these items are currently in the State law. They are similar but not the same because the City would not have jurisdiction if they were the same. They have been differed them from the state law and these reflect what was heard from police officers of what they need and allows them to make the cases here instead of having to travel downtown. They differ slightly and are totally a city ordinance violation and not a state law violation.

Councilmember Dippolito said they are materially the same and violations are already being but they are just not being controlled within the City.

David Davidson said they are not materially the same; they cannot be materially the same.

Mayor Wood said legally they are different.

Councilmember Dippolito said the violations are similar.

David Davidson said they would be similar to things that they currently cite people for.

Councilmember Dippolito said that was what he was trying to get to and thanked Mr. Davidson.

Councilmember Diamond said she has always been fascinated by the unruly children law and said it looks like a lot of these things are things that unruly children do. She asked if that is still in the City code.

Chief Grant said it is but it is not necessarily an ordinance. Councilmember Diamond said and it is still a charge and that falls underneath municipal court. Chief Grant replied that it could fall under the disorderly conduct charge but that probably would still be a state violation as well and it would just depend on what the best charge would be. It could be a disorderly conduct charge but it may not be. He said a lot of times the City tends to charge juveniles with a state violation because the City does

not house juveniles at our jails. The difference between an ordinance and a law is that a violation of law would either go to the Fulton County Sheriff's office jail and an ordinance violation would go to the Roswell City jail. Once they are in the City of Roswell jail, they are prosecuted by the City's Solicitor in the City of Roswell municipal court.

Councilmember Diamond said then we would actually look to having our children go to state court as opposed to staying in our jail. Chief Grant replied that was correct.

Public comment invited. None were made.

A motion was made by Council Member Orlans, seconded by Council Member Wynn, that this Ordinance be approved on Second Reading. The motion carried by the following vote:

In Favor: 6

Enactment No: ORD No. 2014-03-04

Recreation and Parks Department - Councilmember Betty Price

9. Approval to place boulder monuments along the River as part of the Cherokee Monument Project.

Presented by Joe Glover, Director of Recreation, Parks, Historic and Cultural Affairs Department

Councilmember Price introduced this item and said it has been approved by the Recreation Commission. She invited guests to come forward to give a brief presentation.

Cindy Crane introduced herself and stated her home address as 220 Independence Way in Roswell. Johanna Harnett introduced herself as the President of the Roswell Historical Society and stated her home address as 310 River Glen Drive in Roswell. Judy Meer introduced herself as the past President of the Roswell Historical Society and stated her home address as 10850 Shagbark Trail in Roswell.

Cindy Crane said the goal of this memorial project is to honor the Cherokee and to educate and to bring additional resources to Roswell and to promote Roswell as a City that includes the Cherokee and the prior Indians as part of its history.

Johanna Harnett said this started as a 501 C-3 with a mission to preserve, protect and share its history and the Roswell Historical Society decided that this was a good project for them to get behind. The Historical Society will administer donations for the project and the fundraising will be handled by Cindy Crane. They estimate a cost of \$10,000 to \$15,000 to be raised through private funds and that varies depending upon the tonnage of the boulders that are selected. She said they worked with Joe Glover and Mr. Pruitt at Recreation and Parks as they moved through this process and expressed appreciation to them as well as to the Recreation Commission for approving this proposal on February 27, 2014 and bringing it to Mayor and Council. She said the verbiage was readjusted on the eight boulders and had been sent to Jeff Bishop, the President of the Trail of Tears Association who vetted them through the Cherokee Nation, the Trail of Tears Association and the National Park Service.

Mayor Wood asked if the Recreation and Parks Department had reviewed and approved the text.

Ms. Harnett replied they have and said the plan is to have the boulders ordered by May 10, 2014 so the boulders and plaques can be in place with the stories by July 1, 2014. She displayed an example of a plaque that was an approximate size that would have three eights inch raised type in New Times Roman. She said the plaques on the boulders would vary in degree by the length of the stories.

Cindy Crane said after the boulders are put in place, they hope to have a Cherokee festival and said she has relationships with the Cherokee Chiefs in Oklahoma and North Carolina as well as the National Trail of Tears Association because of her work as an author on Cherokee history. They hope to have an unveiling ceremony and have them present sometime this summer. This is fitting because in March, 175 years ago this month was the end of the Trail of Tears. In July is when the Cherokee Active Union occurred which brought the western and eastern bands of the Cherokee back together. That is a very positive event for them and it would be a perfect time to have a festival to honor them and to unveil the monument to the Cherokee and the City as well.

Ms. Harnett said they prefer keeping the topics to themselves for now but copies were available for Council's perusal. They believe the stories will be part of the draw to the memorial. She showed the titles of the topics and said they begin by honoring those that came before and the last is a recognition that it was not only the Cherokee occupying land along the river but the Creek and other native peoples going back to 4,000 to 8,000 B.C.

Cindy Crane said they are not requesting any funds from the City; they have people waiting and willing to provide the funds. But they need to do this quickly in order to meet the goal of having a ceremony in the summer. They plan to have the funds by May 1, 2014. She said again this is to honor, educate and promote the City of Roswell.

Mayor Wood asked if they are requesting that the Council approve this concept.

Cindy Crane said yes the concept and approval to place the boulders in the City.

Mayor Wood said he understands a Memorandum of Understanding is to follow. Mr. Glover said that was correct.

Mayor Wood said one thing he would like to confirm is that in the remote possibly that it would be required to remove a boulder, would the City have permission to remove and relocate the boulders within the same vicinity on the trail at the City's cost. He said for example if they needed to run a utility or for some unforeseen reason, do something with the park. He asked if that could be included in the Memorandum of Understanding.

Joe Glover said once the boulders are purchased and placed, they can be removed if need be. The City would be responsible for the maintenance of those boulders and said yes they can and they will put that in the Memorandum of Understanding.

Mayor Wood said there was no need to argue about the specific location; these are arbitrary locations and if park plans change they can adjust the location. Mr. Glover said that is correct.

Council Comment:

Councilmember Dippolito said this is a great idea and a wonderful way to promote a part of our history that very few residents know anything about. He asked if the Historical Society had approached Fulton County schools to talk to them about what they are doing and explain the process. Cindy Crane thanked Councilmember Dippolito for bringing that up and said it is a great idea but they wanted to get approval first before contacting the schools. Councilmember Dippolito said the school system studies the Trail of Tears and his two daughters recently did that. It is part of the curriculum and they would enjoy hearing about this.

Councilmember Price said it is fitting in the month of March and in anticipation of the month of July, two important dates for the Cherokee. She said she is honored to make this motion.

Public comment invited. None were made.

A motion was made by Council Member Wynn, seconded by Council Member Orlans, that placing the boulder monuments along the river walk at Riverside Park to honor and educate the community about the history of the Cherokee Indians in Roswell and the Cherokee Nation be approved. There will also be a Memorandum of Understanding between the Roswell Historical Society and the City of Roswell. The motion carried by the following vote:

In Favor: 6

10.

Approval for the Mayor and/or City Administrator to sign a contract with Chattahoochee Outfitters, LLC to provide recreational and concession services at Don White and Azalea Parks.

Presented by Joe Glover, Director of Recreation, Parks, Historic and Cultural Affairs

Recreation, Parks, Historic and Cultural Affairs Director Joe Glover presented this item stating they issued a bid for this project and only one bid was received. Chattahoochee Outfitters has been the City's contractor for the past five to six years and have done a good job. Their contract will be expanded this year to include bicycle rental and they will be moving their location to the Ace Sand Company property which they currently use for raft and tube rentals and that will now include the bicycle rental. Chattahoochee Outfitters has concession at the Azalea Park building and will have concessions at Don White Park. The concessions at Riverside Park are still operated by the Department. Staff is requesting approval of this contract.

Public Comment:

Phil Lunney stated his home address as 9460 Hillside Drive in Roswell. He asked if this would include food trucks at the volley ball location. Mr. Glover replied no, sir; that is separate. Mr. Lunney asked where the concessions services will be located at Don White Park. Mr. Glover replied there is a building just a little east of where the volleyball courts are and the concessions will operate out of that building as well as the bicycle rental and there is also storage for some of the rafts and tubes. Mayor Wood asked if that is the Threat's old house. Mr. Glover said yes, the Threat house. Mr. Lunney said he was asking about the concessions in Don White Park. Mr. Glover said there is no concession now but will open this spring at the house on the other side of the restroom building. That is also where the bicycle rental will be and concession will be on the basement floor. Mr. Lunney thanked Mr. Glover.

No further public comments. The public hearing was closed. There was no Council

comment.

A motion was made by Council Member Price, seconded by Council Member Orlans, that this contract with Chattahoochee Outfitters, LLC be approved. The recreation services will consist of canoe, kayak, rafts, paddle boards, tubes and bicycle rentals. The concession services include but are not limited to soft drinks, candy, water, food and chips. The motion carried by the following vote:

In Favor: 6

Transportation Department - Councilmember Nancy Diamond

11.

Approval of the Transportation Master Plan.

Presented by Steve Acenbrak, Director of Transportation

Director of Transportation Steve Acenbrak presented this item stating that staff is seeking Council approval of the improvements that have been made to the Transportation Master Plan (TMT). He noted that in order to be a qualified government status, the City needs a Comprehensive Plan. There used to be a transportation element to the Comprehensive Plan but that was changed so now there is a standalone document which is the Transportation Master Plan which was last updated in the fall of 2011.

Mr. Acenbrak displayed a graphic on the overhead screen and said they would like to keep the plan current and fresh especially in light of the recently passed Unified Development Code (UDC). The key elements that were made to the plan is bringing the road network under the Functional Classification system of roadways; updating things like Census if projects have been completed, the connectivity map; as well as other administrative changes to keep the document current and fresh. This has been discussed at work sessions and committee meetings and they have met with several Councilmembers individually going through their collective concerns and he thinks they have all been addressed.

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

Motion: Councilmember Diamond made a motion for Approval of the Transportation Master Plan. Councilmember Price seconded. The motion passed unanimously.

Council Comment:

Councilmember Price said they worked long and hard on this during the last year. It was deferred a number of times in order to get it just right which they have done and she expressed appreciation for their indulgence for her excessiveness for details. But she said they have an excellent document and she was thrilled it passed this evening.

Mayor Wood thanked Councilmember Price as former liaison to the Transportation Department and also to staff for getting all of this done. He said Councilmember Price saying they got it just right is a high complement.

Mr. Acenbrak said it is and they are grateful for those words. He thanked Mayor Wood and recognized Transportation Planning Manager Chris Chovan as being largely responsible for this effort.

A motion was made by Council Member Diamond, seconded by Council Member Price, that this Transportation Master Plan be approved. The motion carried by the following vote:

In Favor: 6

12. Approval of a Resolution to accept the 2014 Local Maintenance and Improvement Grant (LMIG) funds from the Georgia Department of Transportation (GDOT) in the amount of \$626,995.26 and approval of a Budget Amendment BA 22042200-02-10-14 to establish the grant account.

Presented by Steve Acenbrak, Director of Transportation

Director of Transportation Steve Acenbrak presented this item stating that the Local Maintenance and Improvement Grant (LMIG), a Georgia Department of Transportation (GDOT) policy includes population and centerline miles. The City applies for this every year. It is based on how much money is in the state budget, not on the condition of the roads. This program is used to improve the collector streets primarily that get the most traffic and wear. In this case, Old Alabama Road, Old Roswell Road and Old Mountain Park Road are to be resurfaced. This money is needed to keep those roads in a condition index between 70 and 75. He noted that staff always overestimates what they will need.

Council Comment:

Councilmember Wynn said other road improvements are planned for Old Alabama and Old Alabama Connector. Mr. Acenbrak said that is correct. Councilmember Wynn asked how this would fit into the repaving schedule and the improvements they are looking at doing. Mr. Acenbrak said he was fairly confident that the Old Alabama Connector project would be long completed before this paving is underway.

Councilmember Dippolito said Mr. Acenbrak mentioned that this is not based on the condition of the roads and asked if it is based on the condition of the roads that qualify.

Steve Acenbrak replied that they have to be in poor condition in order to qualify. Staff submits their list and GDOT checks to make sure that the City is being honest with the program. He said if there were four miles of road, they would submit for six and then make that go as far as possible. All of these roads in total will probably exceed the budget and that is where they dial in the length, scope, amount of deep patching or they take some City money and apply it to that in order to get the whole thing done. But basically, they make the GDOT money go as far as possible.

Councilmember Dippolito said these three roads are probably in the worst condition of the roads that would qualify for LMIG funds. Mr. Acenbrak replied that is correct. Councilmember Dippolito said make sure you don't do Old Roswell Road during rush hour or carpool hour. Mr. Acenbrak noted that all of the work is done after 9:00am and ends by 4:00pm. Councilmember Dippolito thanked Mr. Acenbrak.

There were no further comments from Council. Public comment was invited. None were made.

A motion was made by Council Member Diamond, seconded by Council Member Wynn, that this LMIG and budget amendment be approved. These funds will be used to resurface Old Alabama Road, Old Roswell Road and Old Mountain Park Road. The motion carried by the following vote:

In Favor: 6

Enactment No: R2014-03-08

13. Approval for the Mayor and/or City Administrator to sign a Memorandum of Understanding (MOU) with Fulton County for the Holcomb Bridge Road Westbound Improvements Project and approval of Budget Amendment 31242101-03-10-14 to accept reimbursement funds and establish a revenue budget.

Presented by Steve Acenbrak, Director of Transportation

Director of Transportation Steve Acenbrak presented this item stating the City has a bond project to improve Holcomb Bridge Road east of SR-400. The east bound lanes have three lanes and the westbound lanes have two lanes. They will be matching the cross section across that area basically in the area of Kimberly Clarke.

Mr. Acenbrak displayed a graphic on the overhead screen and pointed out SR-400, Holcomb Bridge Road and Old Alabama Road. In the neighborhood of Kimberly Clarke is a water vault that belongs to Fulton County. They have discussed this project with Fulton County who realizes that the water vault needs to be moved as a result of this project. Fulton County has already designed the project and taken it to their Board of Commissioners for approval on their end. The way the document reads is that their design will be included in the City of Roswell's bid documents that go out when this road improvement is made. When the contractor bids on the entire scope of work and performs that particular item, the City will pay the contractor and then submit the invoice to Fulton County who will reimburse the City for the cost of this work. This is essentially cost neutral to the City of Roswell to make this important utility relocation to make the project successful.

Mayor Wood thanked the department for bringing a cost neutral project and said that is rare for Transportation.

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

A motion was made by Council Member Diamond, seconded by Council Member Igleheart, that this MOU with Fulton County for the Holcomb Bridge Road Westbound Improvements Project and budget amendment be approved. The motion carried by the following vote:

In Favor: 6

14. Approval of the Residential Traffic Control Enhancement Policy.

Presented by Steve Acenbrak, Director of Transportation

Director of Transportation Steve Acenbrak presented this item stating there is a traffic calming program and some of the homeowner associations have asked for an accelerated, streamlined process where they can address some of their perceived speeding and pedestrian bicycle safety areas themselves. They want some control over what they can do. Therefore, staff began to talk with them and came up with a concept of creating a policy which is a companion to the City's traffic calming policy. Three elements were found that work really well in the field. One is the pedestrian warning assembly which lives in the middle of the street which lets people know that there is a crosswalk and in some cases those have been modified for golf carts. There is also the radar speed feedback sign which notifies approaching motorists of their speed in relation to the speed limit. Embedded in that are chips that do traffic

counts and collect data. Finally, there is the Rectangular Rapid Flashing Beacon (RRFB) which was used at Chattahoochee High School. Putting a solar ray on that avoids having to connect to a Georgia Power pole with a lot of wires and digging wires underground because there is a radio beacon in between them that talks to each other. These things can live largely independently and are extremely effective at driver compliance. When a pedestrian pushes for a crosswalk; it flashes with very bright LED lights and notifies the motorists that a pedestrian is about to enter the crosswalk. Therefore, these three items would be on the menu for a homeowners association to buy themselves. They would not need a petition and there would be no City funds involved. The City's interest of course is to help work with the homeowners associations to give them options. Also, these three particular devices would live in the public right-of-way and it would be appropriate for the City to provide guidance to the homeowners association and deal with a qualified contractor. The sites where they would be located would be identified; they would be given a license to operate them and the data would be shared and the City would make sure that the homeowners associations understand what their qualifications are. Largely, these would be owned by the homeowners association who would be granted a license as an encroachment permit to be in the City's right-of-way.

Mayor Wood said for confirmation that although this would not come to Council; it would require Transportation Department approval. Mr. Acenbrak replied it would. Mayor Wood said that Transportation would approve the sites and the measures. Mr. Acenbrak replied they would go through the same process they do now with the homeowners association which is asking what the problem is and a data decision would be made. They would decide if these are appropriate and if so where they would be located. He said for instance, the assemblies live in harm's way and are frequently hit and in that case they would probably provide them with a mock up for them to understand. He said they have gone back and forth on these and he then showed an example on the overhead screen and said it is the standard for uniform traffic control devices and it would be tailored to the homeowners association so they could not be stolen and relocated. They have heard of that happening across the country so they would be tailored to the individual area and the City would know if they were being reutilized improperly. If they were hit, then it would be up to the homeowners association to manufacture new ones and rebuild them but it would be the City's responsibility to make sure they were sited correctly.

Council Comment:

Councilmember Wynn said they work well and noted that her neighborhood, Willow Springs had been used as one of the test sites and they work very well with a golf cart path and everyone is very happy with them. She said theirs is designed for Willow Springs and thinks they say Willow Springs on them. She said Transportation came up with a great idea and she thanked them for using Willow Springs as their prototype.

Mr. Acenbrak recognized City Traffic Engineer Muhammad Rauf and said he was largely responsible for taking the national standard and adopting it to that type of situation which was very clever and creative. He said they did the national research and they are very effective.

Councilmember Diamond asked how in the future people would know about this.

Mr. Acenbrak said that was a very good point and they would be publishing this with the help of Community Relations. They will put out a list of frequently asked questions that come to the Department. When they go out to homeowners associations, it seems they always start at the same place and every subdivision and homeowners association has a unique personality but they all zero in on the same

elements. They would use these frequently asked questions to let them do their research so when they come to the City; they already have an idea of what they are looking for. He expects they will be coming back to Council with other recommendations and thinks this is going to be very popular and there will be opportunities to expand this program. He did not know how that would work but when these are gotten into the system and they work through a couple of iterations; they will find they are well received by the public and there will probably be some more tools in the future to add to this program.

Councilmember Orlans expressed appreciation to Steve Acenbrak and Muhammad Rauf for putting this program together. He said over the years they have had many different conversations about this and it always comes back to the same things. This gets the items together and the ideas out there for them to look at. He said they originally talked about putting the yellow ones in for the golf cart paths in Willow Springs and Frank Casey had jumped on that when they talked about it. As Councilmember Wynn stated, they have worked out very well over there. He thinks that will be one of the main things that people will want to use in the future especially for golf cart paths.

Councilmember Dippolito said as Mr. Acenbrak knows, the Saddle Creek Subdivision has for a long time wanted to find a safe way to cross SR-140. He asked if the state would permit a RRFB at that location.

Steve Acenbrak replied possibly and said they have a project now to extend multi-use trails and sidewalks up from the new roundabout to the entrance into Saddle Creek and that includes a crossing with one of the raised islands in the gore area with a crosswalk and potential for a RRFB. He said that is part of the design they are doing now. Councilmember Dippolito asked if there will be a raised sidewalk in one area. Mr. Acenbrak said no, he was sorry it would be a raised concrete island like in midtown or in Crabapple. He said it would be a splitter island that would provide pedestrian refuge. He has not seen the final design and did not know if it was a Z crossing or the refuge but said there is a left in and a gore on the opposing left because there is no opposing left and then those gores are ideal locations for these types of crossings. He said yes, they are working with the department on those very issues and said a RRFB would be something that they would consider. He said he did not know if that was included in the final design but he would research that and send an email to Councilmember Dippolito tomorrow.

Councilmember Dippolito said that seems like an appropriate place for one because if there is ever a place where there are potential pedestrians crossing and you want to alert the traffic in a significant way; that would be it.

Mr. Acenbrak said he was referring to the southern entrance where there is only one entrance to the east but there is no opposing entrance to the left. They have considered the sidewalk and the trails coming up and there will be a pedestrian access to that stub road. The kids would be able to go to the pool and tennis courts there.

Councilmember Dippolito thanked Mr. Acenbrak.

A motion was made by Council Member Diamond, seconded by Council Member Orlans, that this Traffic Control Enhancement Policy be approved. This policy will provide a streamlined process for residents and/or Homeowners Associations to take action against perceived speeding and pedestrian/bicycle safety concerns. The motion carried by the following vote:

In Favor: 6

City Attorney's Report

15. Recommendation for closure to discuss personnel and real estate.

A motion was made by Council Member Price, seconded by Council Member Diamond, that recommendation for closure be approved. The motion carried by the following vote:

In Favor: 6

Adjournment

Meeting adjourned at 9:35 p.m.