



# 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 Orleans*  
*Council Member Betty Price*  
*Council Member Becky Wynn*

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Monday, July 23, 2012

7:00 PM

City Hall

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### WELCOME

**Present:** 6 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Kent Igleheart, Council Member Betty Price, and Council Member Becky Wynn

**Absent:** 1 - Council Member Jerry Orleans

*Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Police Captain Ed Sweeney; Major John Watson; Fire Chief Ricky Spencer; 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; Transportation Director Steve Acenbrak; Transportation Deputy Director David Low; Historic and Cultural Affairs Manager Morgan Timmis; Community Development Planner II Courtney Lankford; Community Relations Manager Julie Brechbill; Transportation Land Development Manager Clyde Stricklin; Environmental Education Coordinator Vicki Culbreth; Cultural Arts Center Coordinator Jess Wells; Deputy City Clerk Betsy Branch.*

### Pledge of Allegiance

### CONSENT AGENDA

- Approval of June 25, 2012 Mayor and Council Meeting minutes (detailed minutes to replace Council Brief minutes adopted on July 9, 2012); Approval of July 9, 2012 Mayor and Council Meeting Brief.**  
*Administration*

### Approval of the Consent Agenda

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

vote:

In Favor: 5

## REGULAR AGENDA

### Administration and Finance Department - Councilmember Rich Dippolito

- Approval of a Resolution to Authorize a Master Lease Agreement with the Georgia Municipal Association (GMA) Inc. and approval of the Georgia Municipal Lease and Addendum for the purchase of Fire Apparatus in the amount of \$1,650,000.**

*Presented by Keith Lee, Director of Finance*

*Director of Finance Keith Lee presented this item stating this is a request to sign a GMA master lease with the City of Roswell for \$1,650,000 and includes the purchase of one fire engine for \$450,000 and one ladder truck for \$1,200,000. The annual payment for this lease is \$181,160.03 at a quoted rate of 2.140% with a ten year term.*

*Mayor Wood asked if the interest rate of 2.140% was the effective rate of interest that is being paid over and above the purchase of this equipment. Mr. Lee replied yes. Mayor Wood asked if it would be 2.140% per year. Mr. Lee replied yes. Mayor Wood asked Mr. Lee if he believes this to be a wise financial move. Mr. Lee replied yes.*

*Council Comments:*

*Councilmember Price said there is something in the paperwork that talks about accepting the fire truck as is and asked if they are new vehicles. Mr. Lee replied they are new.*

*Mayor Wood asked if this is a replacement of an old truck; if so, what is the age of the truck. Mr. Lee replied it is a replacement. Fire Chief Ricky Spencer said these are replacements for a 1991 fire truck and a 1986 ladder truck. Mayor Wood said it is important for people to know that the City takes good care of their vehicles and they try to get as many miles as reasonably expected out of them; there is a good reason to replace these vehicles. Chief Spencer agreed.*

*Councilmember Dippolito said this lease is for ten years with an opportunity to purchase the vehicle for \$1.00 at the end of the lease and asked Mr. Lee if that is the intention. Mr. Lee said that is staff's recommendation. Councilmember Dippolito said then there would be no lease for the remaining ten years. Mr. Lee replied that was correct.*

*Councilmember Price referred to Exhibit "B" of the Master Lease and said there are alternative payment schemes and her understanding is that this will be done annually. She asked if there is any merit to doing it in another fashion. Mr. Lee replied no, they would pay it annually, as is the most efficient way from an accounts payable standpoint to dispose of the payments. Councilmember Price asked if doing it semi-annually would reduce the interest. Mr. Lee replied no.*

*City Administrator Kay Love responded to Councilmember Price's question stating that mainly those options are for governments who have a cash flow problem that*

requires them to borrow the money in the first place. She said the rate is annualized and does not make a difference in the amount of money the City pays whether it is monthly, quarterly or annually. Councilmember Price thanked Ms. Love.

There were no further questions from Council. Public comments were invited. No public comments were made.

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

**In Favor: 5**

Enactment No: R2012-07-31

### **Community Development - Councilmember Nancy Diamond**

**2. Approval of an Amendment to Chapter 14, Parks, Recreation, and Cultural Affairs, and Chapter 15, Reserved, of the City of Roswell Code of Ordinances. (First Reading) (This item was deferred from the July 9, 2012 Mayor and City Council meeting) Presented by Alice Wakefield, Director of Community Development**

Director of Community Development Alice Wakefield presented this item and said it is a request to approve an amendment to the Code of Ordinances by removing the section dealing with special events from, Chapter 14, Parks, Recreation and Cultural Affairs and moving it into a newly established chapter, Chapter 15, Special Events, Filming, & Public Use of City Facilities. She said this ordinance clarifies the special events permitting process and defines what a special event is. She said it explains what activities are exempt; the application deadlines, content and fees, as well as the standards for denial of a permit. She said the most significant thing about the ordinance is that it establishes the process and procedures for applications for sponsorship of City resources in conjunction with a special event that would function much like a grant process where twice a year the Mayor and City Council would have to approve special events that are seeking sponsorship from the City. She said on a later date they would bring forth the provisions of the ordinance dealing with filming and public use of City facilities. Ms. Wakefield said this is the first reading of this amendment and staff recommends approval.

Mayor Wood asked if they anticipate any significant changes in what has been granted for people who have applied for special events in the past. Ms. Wakefield replied no. Mayor Wood said then this makes it clear what the grounds are. Ms. Wakefield replied yes it is made very clear. Mayor Wood said then someone who applied for a special event in the past that was granted should not have any trouble working through this. Ms. Wakefield replied no and if this is approved, they will send out detailed letters to prior applicants explaining the process and will schedule meetings to explain the new process and to answer questions. Mayor Wood said if someone currently has an event approved, then they are already approved. Ms. Wakefield replied that is correct, it is a new application.

Mayor Wood asked what the proposed effective deadline is. Ms. Wakefield said if this is approved on second reading in August, the deadline will be September 30 for events that occur from January through June of the following year. Mayor Wood asked if they are notifying all previous applicants that they now have a deadline. Ms.

Wakefield replied yes.

*Council Comment:*

Councilmember Price referred to Section 15.1.9 - Applications for Sponsorship of City resources in conjunction with a Special Event. She said that (b) (8) references one of the criteria for which sponsorship would be granted if the entity is a nonprofit and at least fifty (50) percent of the proceeds will go to a nonprofit. She said first of all she is trying to imagine a scenario where a sponsorship would be granted if it were not a nonprofit and asked if there is such a thing.

Ms. Wakefield replied there have been sponsorships granted to some events that were not purely nonprofit and she wasn't sure if the criterion is for a purely nonprofit event, but there have been incidents where the City, in order to benefit economic development, have granted sponsorship. She said this is just one of the criteria that applicants can provide.

Councilmember Price said that was her first question, that she couldn't imagine a situation where it wouldn't be a nonprofit. She said the second half of that proviso is that fifty (50) percent of the proceeds go to a nonprofit. She said are they asking to see their books or how would it be known where the proceeds of their event would go. Ms. Wakefield replied that they will go on an honor system, this is one of the questions asked as part of the application, and they will be taken at their word that the fundraiser is to benefit the nonprofit. Councilmember Price said, "I'm just wondering and I know we've talked about this at Committee but if we were to look at their total proceeds and as a percent of what they raised at that event...this really is talking about what we would grant them more than anything else, but still I'm just not sure that if they are a nonprofit, the presumption is that it is going to the nonprofit. So, you're saying that you ask the question and if they say yes, and I can't imagine them saying no, then that is just one of our criteria." Ms. Wakefield replied yes, but we can go back and look at that provision. Councilmember Price thanked Ms. Wakefield.

City Attorney David Davidson conducted the first reading of an ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ROSWELL, CHAPTER 3, ALCOHOLIC BEVERAGES, REGARDING SPECIAL EVENT PERMITS, stating: pursuant to their authority, the Mayor and City Council wish to clarify the regulations for permitting and City-sponsorship of special events and have considered the effects on the public health, safety and welfare and determined that it would be in the best interest of the public to amend the Code of Ordinances regarding special events, it is hereby ordained, that Chapter 14, Parks, Recreation & Cultural Affairs and Chapter 15, Reserved, of the Code of Ordinances of the City of Roswell is amended as follows:

1.

The Roswell Code of Ordinances is hereby amended by deleting Section 14.3 Special Events, and establishing a new Chapter 15, Special Events, Filming, & Public Use of City Facilities, including Section 15.1 Special Events to read as follows:

*Section 15.1.1 - Special Event Defined; Permit Required*

Special event, as used in this article, means any activity which occurs upon private or public property:

- (a) that will affect the ordinary use of parks, public streets, rights-of-way or sidewalks;
- (b) disrupts the flow of traffic on public streets or sidewalks.

No person or organization shall conduct a special event without first having obtained

*a special event permit from the City of Roswell. Private social gatherings which will make no use of city streets other than for lawful parking are not included.*

#### *Section 15.1.2 - Exemptions*

*The following activities are exempt from the Special Event Permit Requirement:*

- (a) funeral processions;*
- (b) activities conducted by the City of Roswell acting within the scope of its authority;*
- (c) activities involving a demonstration, march, assembly, or other exercise of rights guaranteed by the First Amendment of the United States Constitution which are regulated by Section 18.4 of this code unless the criteria in Section 15.1.1 are met;*
- (d) film productions which are regulated by Section 15.2 of this Code;*
- (e) use of City facilities which is regulated by Section 15.3 of this Code;*
- (f) temporary/seasonal businesses which are regulated by Section 10.15 of this Code.*

#### *Section 15.1.3 – Application: Deadline, Content, and Fee.*

*(a) A complete application for a special event permit shall be submitted to the community development department:*

- 1. not less than two (2) weeks prior to an event if City resources are not required;*
- 2. not less than thirty (30) days prior to a recurring event if City resources are required;*
- 3. not less than sixty (60) days prior to a new event or recurring event with a change in venue/route if City resources are required;*
- 4. not more than one (1) year prior to an event; or*
- 5. by the deadlines stated in Section 15.1.9 for organizers requesting sponsorship of City resources.*

*(b) The following information shall be provided in the application:*

- 1. Name and Purpose of the special event;*
  - 2. Name, mailing address, telephone number, and email address of applicant*
  - 3. Name, mailing address, telephone number, and email address of event coordinator if applicant is an organization;*
  - 4. Proposed date and times the event will be conducted;*
  - 5. Proposed route to be traveled, the starting point and termination point, and any closures of streets, sidewalks, or rights-of-way requested (if applicable);*
  - 6. Site plan with a map or diagram showing the area to be used, the location of any equipment, vendors, game booths, stands, stages, seating and other facilities, the areas to be used for parking, the location of toilet facilities and water as necessary for the event, any areas where alcohol will be served or sold including a description of the barriers to be used to enclose them;*
  - 7. Projected number of persons and vehicles at the event;*
  - 8. Schedule of activities within the event;*
  - 9. Description of sound equipment to be used;*
  - 10. Sanitation Plan*
  - 11. A certification that the applicant will be financially responsible for any City fees or costs that may be imposed for an event; and*
  - 12. Any other such information as any city department deems reasonably necessary to determine that the permit meets the requirements of this article.*
- (c) The complete application shall be submitted with a nonrefundable payment based on the fee structure established by the City of Roswell.*

#### *Section 15.1.4 - Standards for Denial of Permit*

*Reasons for denial of a special event permit include:*

- (a) An application has already been submitted for the same event on the same day at the same location.*
- (b) The event interferes or conflicts with previously scheduled special events, construction, maintenance, or other City activities;*

- (c) *The event will disrupt traffic within the city beyond practical solution;*
- (d) *The event will interfere with access to fire stations and fire hydrants;*
- (e) *The location of the special event will cause undue hardship to adjacent businesses or residents;*
- (f) *The event will require the diversion of so many public employees that allowing the event would unreasonably deny service to the remainder of the city;*
- (g) *The application contains incomplete or false information;*
- (h) *The applicant fails to comply with all terms of this article including failure to remit all fees and deposits or failure to provide proof of insurance, bonds, and a save harmless agreement to the city.*
- (i) *There is a documented history of problems relating to the event in the past or the applicant, sponsor or promoter has not properly managed or paid all fees for prior events.*

#### *Section 15.1.5 - Administrative Review*

*The community development department shall send copies of special event applications to affected departments. Each department shall review the application and note the resources which it will be required to perform, the number of personnel to perform such activities, the length of time to perform such services, and the cost to perform such services.*

#### *Section 15.1.6 – Special Conditions on Permit*

*Each department reviewing an application may impose in writing certain conditions or restrictions as deemed necessary to facilitate the event, to comply with other laws or regulations, and/or to ensure the safety, health, and welfare of the community. The conditions or restrictions of the departments shall become a part of the permit.*

#### *Section 15.1.7 – Permit Fees and Issuance*

- (a) *The community development department shall determine and calculate permit fees based on all services to be provided by the government for such event and shall be equal to the estimated actual cost to the government to provide such services. The initial permit fee shall be the aggregate of the estimated costs of such services calculated by each government department. If, at the conclusion of the event, the cost of government services is greater than the initial payment, the applicant shall be responsible for the difference. Failure to pay the outstanding amount within 30 days of the billing date shall be a violation of this chapter and shall subject the applicant and/or organization to late fees and other penalties up to and including denial of future permits.*
- (b) *The initial permit fee must be paid in full prior to the issuance of a permit and no later than ten (10) business days prior to the date of the event.*
- (c) *The fees required in this section shall be in addition to any other fees which may be required by any other ordinances or regulations that might be applicable.*
- (d) *Upon receipt of the permit fees as stated in this section, the community development director or his or her designee shall issue the special event permit to the applicant.*

#### *Section 15.1.8 – Temporary Road Closure*

*Road closure(s) may be granted temporarily for permits issued pursuant to this article upon approval of the Chief of Police or his/her designee and the Director of Transportation or his/her designee.*

#### *Section 15.1.9 – Applications for Sponsorship of City resources in conjunction with a Special Event*

- (a) *All applications for sponsorship of City resources shall be submitted in*

conjunction with a special event permit application to the community development department. Sponsorship applications must be submitted by March 31 for events planned for July through December of the same year or by September 30 for events planned for January through June of the following year.

(b) The decision whether to grant sponsorship of City resources shall be based on how effectively the event satisfies the criteria listed below. An event held by an organization that is located in Roswell or which supports Roswell residents and/or businesses will be given priority.

1. The event is open to the public and public participation is invited.
2. The event will benefit Roswell residents.
3. The event provides cultural and educational enrichment.
4. The event promotes family values and is the type of activity or entertainment appropriate for families.
5. The event will benefit Roswell's economy.
6. The event will be marketed and advertised throughout North Fulton.
7. The event will promote the image of the City of Roswell in a positive manner.
8. The event is sponsored by a nonprofit organization and at least fifty (50) percent of all proceeds will go to a nonprofit organization.

(c) The Mayor and City Council shall approve or deny requests for sponsorship of City resources and if approved shall determine the cost, type and extent of City assistance to be provided to such event. The Mayor and City Council have the right to reject a request for sponsorship.

(d) A notice of decision regarding sponsorship of City resources shall be sent to the applicant at the physical or email address stated on the application.

(e) Applicant is responsible for any permit fees remaining after sponsorship has been applied to the total cost of the event.

#### *Section 15.1.10 - Insurance Required.*

At the city's request, the applicant may be required to obtain and present evidence of a surety indemnity bond or comprehensive liability insurance naming the city as an additional insured. The insurance requirement is a minimum of \$300,000.00 personal injury and \$100,000.00 property damage against all claims arising from permits issued pursuant to this article. If the event poses higher risks than covered by such insurance, the applicant shall be responsible for assessing the risks of the event and obtaining additional insurance coverage.

#### *Section 15.1.11 - Save Harmless Agreement*

The applicant is required to provide a save harmless agreement in which the applicant agrees to defend, pay and save harmless the city, its officers and employees, from any and all claims or lawsuits for personal injury or property damage arising from or in any way connected to the special event; excepting any claims arising solely out of the negligent acts of the city, its officers and employees.

#### *Section 15.1.12 - Limitations of Liability*

This article shall not be construed as imposing upon the city or its officials or employees any liability or responsibility for any injury or damage to any person in any way connected to the use for which permit has been issued. The city and its officials and employees shall not be deemed to have assumed any liability or responsibility by reasons of inspections performed, the issuance of any permit, or the approval of any use of the right-of-way or other public property.

#### *Section 15.1.13 - Sanitation and Clean-Up*

A special event permit may be issued only after adequate waste disposal facilities have been identified and obtained by the applicant. The applicant will clean the right-of-way or public property of rubbish and debris, returning it to its pre-event condition, within twenty-four (24) hours of the conclusion of the event. If the applicant

*fails to clean up such refuse, such clean up shall be arranged by the city and the costs charged to the applicant.*

*Section 15.1.14 - Other Permits Required*

*The applicant shall obtain other permits that may be required by other chapters of this Code or from other jurisdictions for this special event.*

- (a) Alcoholic beverage. Any permit for the sale or serving of alcoholic beverages shall be in accordance with provisions of state law and chapter 3 of this Code.*
- (b) Fireworks. Any permit obtained regarding a fireworks display shall be submitted to and approved by the City of Roswell Fire Department.*
- (c) Signs. Permits for any signs advertising or relating to such special event shall be in accordance with the City of Roswell Zoning Ordinance, Chapter 22, "Signs and Advertising."*

*Section 15.1.15 - Revocation of Special Event Permit*

*All permits issued pursuant to this article shall be temporary and do not vest any permanent rights. Special event permits may be revoked by the Director of Community Development or his or her designee for the following reasons:*

- (a) Application contained incomplete or false information;*
- (b) Applicant does not comply with all terms and conditions of permit;*
- (c) Applicant fails to arrange for or adequately remit all fees, deposits, insurance or bonds to the city;*
- (d) Disaster, public calamity, riot or other emergency exists;*
- (e) Event threatens public safety, health, or welfare.*

*Section 15.1.16 - Appeal Procedure*

*Any applicant whose special event permit application has been denied or revoked may request a review of this decision by the city administrator. This request must be in writing and received by the city administrator within five (5) business days of the notice of permit denial or revocation. The applicant may appeal the decision of the city administrator to the mayor and city council by filing a written notice of such appeal to the City Clerk within five (5) business days of the notice of denial of the applicant's appeal by the city administrator. The mayor and council shall set a hearing date within fifteen (15) days of receiving such appeal request. At such a hearing, the applicant is entitled to be heard and present evidence in his behalf. The mayor and city council shall determine whether the denial or revocation of the permit is justified.*

*Section 15.1.17 – Special Event Permit at Event*

*The event organizer shall have a copy of the Special Event Permit on-site during the entire event and shall furnish the permit at the request of any City official.*

*Mr. Davidson noted that if approved this would be the first reading.*

*Public comments were invited. No public comments were made.*

*Further Council Discussion:*

*Councilmember Price referred to Section 15.1.16 – Appeal Procedure and stated that the only possibility she could imagine would be if someone missed one of the deadlines and perhaps an application would not even be accepted, therefore it couldn't be denied. She asked if language could be added to say, any applicant whose special permit application has not been accepted or has been denied or revoked. She said in the event that there are extenuating circumstances in which they missed a deadline and even if had not been denied, at least there could be some sort of appeal process. Mayor Wood asked if that is an amendment.*

*Amendment: Councilmember Price said she would make a motion to amend Section 15.1.16, to add in the first line: any applicant whose special event permit application has not been accepted, denied or revoked, etc.*

*Mayor Wood called for a second to the amendment.*

*Councilmember Dippolito said he was confused about the wording and asked what exactly is trying to be accomplished.*

*Mayor Wood said he thinks this is a clarification to make sure if an application is rejected, that it is treated as a denial.*

*Councilmember Dippolito said, "But, if you say it has not been accepted, even if they don't make application, would it qualify for appeal?"*

*Mayor Wood said no, they would have to apply and he thought the concern was that if the application is rejected as late, it isn't treated as a denial but a rejection. He said he thinks this is just a clarification and the intent would be whether it was denied or rejected, that they could appeal.*

*Councilmember Wynn asked if a denial and missing a deadline are two different things and if someone misses the deadline do they even look at the application. Ms. Wakefield replied no. Councilmember Wynn said then that is not a denial, they just missed the deadline, so that is not a denial or a revocation of the application; it is just that staff doesn't even look at the application at all. Ms. Wakefield replied that is correct. Councilmember Wynn said then she couldn't go with the amendment.*

*Mayor Wood said he supports the amendment because under extenuating circumstances it might be appropriate to consider it, even if it is late.*

*Councilmember Wynn suggested that they put in a time line so someone could not come in two weeks or ten days after the deadline and just say they were sorry but they missed it. She said if this is going to be put in, it should not be open ended and there should be a time line of perhaps 48 or 72 hours but she could not vote for something that is open ended.*

*Mayor Wood said he could support it being open ended because the Council would make the final determination as to whether or not to grant it.*

*Councilmember Diamond said she was concerned it might be a way to bypass the process. She said someone who didn't want to go through the entire vetting process could just appeal it late in the game and go directly to Council. She said there must be a middle ground or another way to go about this.*

*Mayor Wood said he supports this and there are many circumstances under which the applicant would have to justify to Council a good ground for denial. He said there are many good causes that he would otherwise support. He said given that the nonprofit world is made up of voluntary organizations, he would like to see Council have the latitude to grant something in the event of extraordinary circumstances if someone missed a deadline for which they didn't know about or someone got sick or went out of town.*

*Councilmember Diamond said she didn't disagree with that and perhaps a deadline should not be a part of it, but she would like it not be an open door in order to bypass the process. She said there should be some wording to make that work.*

Mayor Wood said perhaps Mr. Davidson could come up with some language where they would be required to show extraordinary circumstances to justify that they missed it.

Councilmember Diamond said perhaps by second reading, they could have something on that.

Mayor Wood said they couldn't say they just didn't feel like it, that would not be extraordinary circumstances. He said he was sure Mr. Davidson could come up with some language, as lawyers they know all about deadlines and extraordinary circumstances and there are rules that apply and they could work on that language.

Mayor Wood said the amendment fails for the lack of a second but it is a suggestion before second reading and would be considered then.

Councilmember Price said, "Well, the fact that we are already in this section going to grant the ability to appeal based on a denial or a revocation which presumably would be for cause, then for somebody who just missed a deadline, for instance we are imposing new deadlines now with this March 31 deadline for any event July through December and also the September deadline for any events for January through June of the following year. And, I anticipate that in the first year of this there will be a number of people who won't know. And, we will never know that they were not even rejected because they will just simply not have been accepted. I think that when people just walk away and think that is a final answer, that they need to be apprised of the ability to rectify their oversight."

Mayor Wood said that Councilmember Price had made a good suggestion and he anticipates that with Mr. Davidson's additional language about under what circumstances they could appeal, staff would find something that is acceptable to the entire Council.

Councilmember Price thanked Mayor Wood.

Mayor Wood said we have a motion and a second to approve first reading with a suggestion for additional language to be considered at the second reading.

There were no further questions from Council. Public comments were invited. No public comments were made.

**A motion was made by Council Member Diamond, seconded by Council Member Dippolito, that this Item be Approved on First Reading and placed on the Mayor and City Council agenda for 8/13/2012. The motion carried by the following vote:**

**In Favor: 5**

Enactment No: ORD 2012-08-12

### **Environmental / Public Works Department - Councilmember Kent Igleheart**

- 3. Approval of a Resolution to encourage the education of citizens on the harm done to the environment by balloon releases.**

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

Councilmember Igleheart introduced the item and said this is a resolution to encourage the education of citizens on the harm done to the environment by balloon releases. He introduced Cameron Koporc, a third grader at Sweet Apple Elementary who had taken part in the Droopy Dropperson Coloring Book Contest earlier in the year. He said since then she has been active with the City and the Environmental Public Works Department, talking with Stu Moring, Vicki Culbreth, and other staff members regarding the environmental problems from balloon releases. He said the City's ordinances already cover that but it is a good idea, from both the department and Keep Roswell Beautiful, to come forward with this resolution from an educational standpoint.

Mayor Wood asked Cameron to come forward and talk about the resolution. Cameron thanked Council for inviting her to the meeting and for addressing her concerns about balloons and the environment. She quoted from one of her favorite movies, *The Lorax*, "Unless someone like you cares a whole awful lot, nothing is going to get better." Cameron said one of the problems with releasing balloons is that birds and sea animals die from choking on them. But, she said together we can make a difference and keep Roswell green. Mayor Wood thanked Cameron for raising her concerns to the City of Roswell.

Director of Public Works/Environmental Stu Moring said that Cameron had brought this issue to their attention and she has been working with the City's Environmental Education Coordinator, Vicki Culbreth in helping to develop this resolution for the City. He said often people are not polluting out of disregard but out of ignorance because they don't realize there is an impact of the things that they do on an everyday basis. He said Cameron has brought this information to us and the existing ordinances help control that but the City is interested in an educational program to help people better understand the impacts. He said as has often been stated, the great thing about being in Roswell is our concerned citizens who want to make this a better place to live which is reflected by the caring attitude of the City's Mayor and Council. He thanked them on behalf of Cameron and the City staff.

City Attorney David Davidson read, a RESOLUTION TO ENCOURAGE THE EDUCATION OF CITIZENS ON THE HARM DONE TO THE ENVIRONMENT BY BALLOON RELEASES AND TO FIND AN ALTERNATIVE WAY TO CELEBRATE SPECIAL OCCASIONS, stating: Whereas, The City of Roswell promotes a clean and healthy environment through partnership with Keep Roswell Beautiful; and Whereas, Keep Roswell Beautiful's mission is to educate, motivate and empower the citizens and businesses of Roswell in the beautification, conservation and preservation of our environment; and Whereas, both the City of Roswell and Keep Roswell Beautiful recognize that litter comes in many forms, including balloons; and Whereas, there are alternatives to releasing balloons during celebrations, such as bubbles or a balloon drop; and Whereas, Roswell resident Cameron Koporc, a rising third grader at Sweet Apple Elementary School, brought this concern to the City of Roswell's and Keep Roswell Beautiful's attention: Now, Therefore, be it resolved by the Mayor and Council of the City of Roswell that citizens, schools and businesses in Roswell are encouraged to educate themselves on the harm done by balloon releases and to find an alternative way to celebrate special occasions.

Mr. Davidson said if approved, this would be the reading of the resolution.

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

**In Favor: 5**

Enactment No: R2012-07-32

**Public Safety - Councilmember Becky Wynn****4. Approval to renew the Memorandum of Understanding (MOU) between the U. S. Department of Justice, Drug Enforcement Administration (DEA) and the Roswell Police Department. Presented by Dwayne Orrick, Chief of Police**

*Roswell Police Department Support Services, Major John Watson presented this item and said for more than three decades, the Drug Enforcement Administration has called on local and state agencies to develop task forces to combat illegal drug activity, mainly to combat high risk, high activity or high level drug dealers. He said the City of Roswell has participated in this for more than thirty years with an officer assigned to work with the agency; this position has been held by Officer Gooden for approximately thirteen years. Major Watson said this proposal is for a renewal of the existing relationship with the DEA.*

*Mayor Wood asked what has been the experience with recoveries as well as the financial impact on the City of Roswell. Major Watson said if Mayor Wood was referring to expenditures versus revenues, then Keith Lee could better answer that question, but he said this has been fairly extensive. Mayor Wood asked if Kay Love could address the question.*

*City Administrator Kay Love said she could not give exact dollar amounts but the amount that is paid for the officer and his equipment is much less than what is received because of the forfeitures gained from the entire task force. She said we all share equally in those and have had as much as \$300,000 or as little as \$50,000 in one year. Ms. Love said there has been a healthy fund balance accumulated in the confiscated assets fund over the past years that have funded a variety of equipment and department needs not otherwise funded through the General Fund.*

*Mayor Wood said then in addition to the public safety benefits, this is also being recommended from a financial point. Ms. Love replied yes.*

*Mayor Wood called for a motion.*

*Motion: Councilmember Wynn made a motion for Approval to renew the Memorandum of Understanding (MOU) between the U. S. Department of Justice, Drug Enforcement Administration (DEA) and the Roswell Police Department. Councilmember Dippolito seconded.*

*Public comments were invited. No public comments were made.*

*Mayor Wood called for Council discussion.*

*Council Comments:*

*Councilmember Price said this came up at Committee but she would like to reiterate it here because she is concerned about the liability to the City for an officer who is under direct supervision and control of the DEA while salary is being paid by the City of Roswell. She said she knows there is no language in the agreement that protects the City and she wished there were.*

*Major Watson said he thought that was a legal question that had been deferred to Mr. Davidson in Committee. He said that he had done some research today and asked Council to refer to item #4 of the agreement which states, "The RPD officer assigned*

to the Task Force shall be deputized as Task Force Officer of DEA pursuant to 21 U.S.C. 878." Major Watson said this deals specifically with the powers of enforcement personnel. He said the very last item under Code 878 (b) states, "State and local law enforcement officers performing functions under this section, shall not be deemed federal employees and shall not be subject to provisions of law relating to federal employees except that such officers shall be subject to Section 3374C of Title 5." Major Watson said he also looked up U.S.C. section 3374 C of Title 5 that states, "During the period of assignment, a state/local government employee on detail to a federal agency...is deemed an employee of the agency for the purpose of Chapter 73 of this title and several other acts and information and the Federal Tort Claims Act and other federal tort liability statute."

Major Watson asked City Attorney David Davidson to address anything that the Federal Tort Claims Act might address for the issues that were raised. Mr. Davidson said his opinion is that the City has absolutely no liability unless the City's officer does something out of character but for his actions working under the supervision of the DEA, the City does not have any liability.

Mayor Wood said as long as he is following the supervision then the City is okay. Mr. Davidson replied exactly.

Major Watson said he would like to address one more section that deals with the individual officer from Title 28, Chapter 171 of the Federal Tort Claims Act, Section 2679 (d) (1) which states, "provides that [u]pon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment...the United States shall be substituted as the party defendant in any action filed against the employee." Major Watson said referring back to section 3374 C of Title 5; the City's officer is considered a federal employee. He stated Section 2679 (d) (2), "provides for substitution of the United States in actions filed in state court and it also provides that the action will be removed to federal court at any time before trial." Major Watson said this refers back to what Mr. Davidson said that if the officer were acting within the scope of law, within the rules and regulations, then the federal government would become the party and removes the officer from being the party of the lawsuit.

Mayor Wood thanked Major Watson. There was no further Council discussion.

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

**In Favor: 5**

**5. Approval of a project management proposal from Commdex for the North Fulton Radio System Project.  
Presented by Dwayne Orrick, Chief of Police**

Captain Ed Sweeney from Roswell Police Department Support Services presented this item. He said for over two years, Fulton County has been telling them that their plans are to get out of the radio business and currently all of Roswell's public safety is on the Fulton County trunk radio system. He said because of this, the police and fire departments have been jointly researching other options and recommended a Memorandum of Understanding (MOU) for a governing authority between the five North Fulton County cities to form the North Fulton Radio System. He said there have been many meetings between the cities and as a result, several things were suggested. He said they asked Motorola to provide a quote on the projected build out of the North Fulton Radio System and at the last meeting they agreed to proceed

with a Letter of Intent to use Commdex as a consultant, referred to as Phase 1 of this project. The cost for Phase 1 will be \$8,627 and requires Commdex to perform tower location testing, procurement of permits, negotiations with site owners and filing of applications as well as develop an IGA/Governance model.

Captain Sweeney said this also provides cost estimates for each site, identifies zoning or permitting problems and recommendations for alternate coverage sites. He said the key point is that the County system has known coverage issues and he knew that Chief Spencer would back him up on this and stated that there are several major areas in the City where they can't communicate very well and it is not considered a 95% coverage as public safety requires. He said they have asked both Motorola and Commdex to research that to ensure they will have 95% in-building coverage through the entire city, especially for the fire fighters who need to converse when inside a building.

He said a crucial issue that Commdex found is that the City does not currently have any property to put towers on and although two locations were identified for possible use, acquiring the property will be their biggest point of failure and delay in development of the new system.

Captain Sweeney added that there is also a Phase 2 of this project that is optional and goes into great depth and would eventually go all the way through to the completion of the project, but that has nothing to do with Phase 1.

Mayor Wood asked how many tower locations they anticipate will be needed within the City of Roswell. Captain Sweeney replied there are two; they are proposing a site at Fire Station #6 on Cox Road and one at East Roswell Area Park. Mayor Wood said then we are hoping to put this on City property. Captain Sweeney replied that is correct. Mayor Wood asked when they anticipate the system being up and running. Captain Sweeney replied there would be a two year build time from contract but it depends on how many towers are built and how many existing towers are used. He said it could go very fast if they use all existing towers, but if they need to put up towers, one site can take 5-6 months but they would do multiple sites at the same time. Mayor Wood asked for the projected amount that had been quoted for the total build out. Captain Sweeney replied the projected cost is \$15 million. Mayor Wood asked if that would be spread between all the cities. Captain Sweeney replied yes.

Mayor Wood asked Kay Love what the City of Roswell's anticipated amount of the \$15 million would be and when those funds need to be available. Ms. Love replied it is about \$5 million but it depends on the sites, locations and all of the licensing and permitting. She said that is a very preliminary number but they anticipate funding at not over a 24-month period, but it would run over two fiscal years. She said there are some things in play now that could come forward in FY2013 and then the balance in 2014, but that is unknown today. Mayor Wood asked if it is anticipated that the City will be able to absorb this cost without throwing a wrench in the budget. Ms. Love replied yes, if things work out the way they anticipate. She said it would mean that some other project might be moved down on the priority list as this project moves forward but it would be several months before that is known.

Public comments were invited. No public comments were made.

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

**In Favor: 5**

**Recreation and Parks Department - Councilmember Jerry Orlans****6. Approval of revisions to the Cultural Arts Center "Policies and Procedures" and "Rules For Use"**

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

*City Administrator Kay Love introduced this item.*

*Historic and Cultural Affairs Manager Morgan Timmis presented the item and said these are the revisions that were reviewed in Committee; there are no changes proposed since the Committee vote was taken. She said the primary revisions are substances to extend the allowable period for renters to the facility to rent as far out as twenty-four (24) months. There are corresponding penalties for cancellation of those contracts that vary depending on the period of time in which they are cancelled. She said many of the revisions are for typos. There is an addition of a small fee if renters fail to remove property from the stage; a small increase from \$25 to \$50 for the rental of the concession stand; and a change in the language that refers to ticketing allowing renters to take advantage of the City's new ticketing system if they so desire.*

*Council Comment:*

*Councilmember Price asked, with respect to a resident company, if this supersedes or can there be contractual arrangements made that are in conflict with this. Ms. Timmis replied no, the resident company has its own unique contract which supersedes this essentially and all of the user provisions are unique to them as is specified in the contract. Councilmember Price said then this is separate and distinct and may actually be in conflict in some points. Ms. Timmis replied it is not. She said there is only one significant resident company right now, Georgia Ensemble Theatre, and they already contracted for two years out. Ms. Timmis said they have gone through this with them and the proposed changes will not really affect them. Councilmember Price said they had talked in Committee about the length that someone could actually set up a contract and that they extended it from six months to two years. Ms. Timmis replied that is correct. Councilmember Price asked why they couldn't do a greater length of time because she understands there are some situations where a booking might actually be necessary for longer than two years. She asked if there was any reason they could not do that and added that she knew the Mayor had an objection before in the event that the fees changed. She suggested adding language to the agreement something to the effect of "it would abide by the fees at the time of the event" if it were determined that the City was losing bookings because two years is not long enough to get them on the books. Ms. Timmis replied that may be possible and said that the board voted to look at the time frame again a year from now. She said one of their concerns has to do with their interest in building the Roswell Presents program and identifying additional dates; they do not want to get into a position where there are many dates that might be desirable for the Roswell Presents program already taken years out. She said they did not have real discussion about the possibility of language within these policies that would provide an opt-out, if fees were increased, but that is something they could discuss. Councilmember Price said she thinks it would be advisable or desirable to have the opportunity to book a really great name if they weren't in the habit of booking inside of two or three years. She said she didn't know how to put that into the language and said she knew there was someone in the audience who would like to speak about that as well.*

*Public Comment:*

Nancy Tolbert Yilmaz stated her home address as Lum Crowe Road in Roswell. She spoke about the length of the contract and said it is difficult for them to get guest artists in a two-year frame. She said they had hoped for a four-year window of opportunity for bookings but she realizes the cost of living could increase and therefore the cost of the theatre could go up during that time. She suggested the following language be added to the contract that: "In the event the cost of the theatre increases, whoever has that date has the option of keeping the four-year date they have booked or may opt out of it." She thanked Morgan Timmis and Jess Wells for all they had done to work together on this.

Mayor Wood asked Cultural Arts Center Coordinator Jess Wells to explain the practices that other facilities have about reservations. Mr. Wells said that depends on the different facilities but it runs the gamut anywhere from two years, seven years, or twelve years. Mayor Wood asked him for his thoughts on this. Mr. Wells replied he believes they should stay with the twenty-four (24) month time frame as recommended by the Cultural Arts Board, because they are in the process of starting their own presenting series. He said they do not want to get into a position of locking into dates for other groups before the City has a chance to decide what dates they are going to take advantage of over the next couple of years. He said the City should revisit this after twelve months, as they would have a much better idea of how the City's presenting series is going at that time. Mayor Wood thanked Mr. Wells.

There was no further public comment.

*Further Council Discussion:*

Councilmember Diamond asked what the policy was before this. An unidentified speaker from the audience stated "six months." Councilmember Diamond asked if the board had looked at a longer timeframe or was going to twenty-four months a big move. Ms. Timmis said the board had discussed a longer timeframe and for all the reasons that Mr. Wells had just explained, their vote was to go out as far as twenty-four months and reconsider in a year. Councilmember Diamond said she totally respected the board's decision on how they came to this but her concern is that they are putting the City's presenting series ahead of anyone else. She said she is not comfortable with the City being the first in when there are other entities that might want to do that. She said whatever the timeline is; there should be a level playing field.

Ms. Timmis said they had met with their recurring renters who are considered their primary users that have been there repeatedly. She said of the six organizations they met with, only three, the two dance companies and one orchestra group had an interest in extending the timeframe. She said of course, there are the other individual renters that come ad hoc. Councilmember Diamond said if one of them had an opportunity, could they come to the board directly and say they have an exceptional circumstance and appeal to that. She asked if there is a process for that. Ms. Timmis replied there is not a written process for that but they could attempt to create one. Councilmember Diamond said she hated for them to lose an opportunity whether it is the City's or anybody else to have something exceptional come to the City.

Councilmember Dipolito asked what happens currently in a situation where someone comes in and they have something four years out and our policy is six months not twenty-four months. Ms. Timmis replied they cannot book it, not now.

Councilmember Wynn said she agreed with what she had heard from the other councilmembers that if an exceptional group should come in and want longer than

twenty four months, this should not be so restrictive. She said they need to look at this and consider changing the language.

Mayor Wood said he supports the recommendation of the Cultural Arts Board. They have been given the responsibility for managing the building, are doing a good job, and have come forward with a responsible way to go from six months to twenty-four months. He said he has concerns about locking things up for six years from now because there are other things for consideration. He said he has department head meetings once a month and there was a councilmember who wanted to lock up a reservation for those for the next year but he said no, because everyone should take turns. He said they don't know who might come forward next year and they should not lock these things up that far in advance. He said he is not an expert on this and will go with the recommendation of twenty-four months with it to be reconsidered in twelve months.

Councilmember Dippolito said he supports the Cultural Arts Board as well. He said however, he would suggest this be deferred back to them one more time to look at having a special exception should someone come forward that has an act or something they want to present that the Board feels would really benefit the community and then they could go ahead with the reservation. He said his proposal is that perhaps it could be by special exception.

Mayor Wood said, as was discussed in the language that Councilmember Price mentioned, if they are going to create a special exception, they should provide some direction or definition of what a special exception is.

Councilmember Igleheart said he thinks it is a good idea to come back one more time to do that but the Mayor and the Committee have suggested that there would be a clause where any increase in fee would kick in over that twenty-four months. He said he didn't think it was a good idea for the twenty-four months but if they go out beyond that, then it probably is a good idea to say that anything extra or changing would kick in. He suggested as the discussion is held, they would have those elements be a part of that.

Councilmember Dippolito said perhaps they should leave it up to the Cultural Arts Board to determine some language for a special exception since that is their field. He asked if the Mayor would be comfortable with that. Mayor Wood said he was very comfortable with that.

Councilmember Igleheart said he would like to defer this to a month from now and asked if that would provide enough time for the Cultural Arts Board to meet again. Ms. Timmis replied yes, their next meeting is the first Tuesday in August but that might be after the Council's next meeting. Councilmember Igleheart said then he would defer this to August 27.

**A motion was made by Council Member Igleheart, seconded by Council Member Wynn, that this Item be Deferred for further discussion and placed on the Mayor and City Council agenda for 8/27/2012. The motion carried by the following vote:**

In Favor: 5

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

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

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

**In Favor: 5**

### **Adjournment**

*After no further business, the Mayor and Council meeting adjourned at 9:00 p.m. for a work session to discuss the Historic Gateway Master Plan.*