



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, November 14, 2011

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; Director of Environmental/Public Works Director Stu Moring; Transportation Director Steve Acenbrak; Transportation Land Development Manager Clyde Stricklin; Transportation Deputy Director David Low; Director of Community Development Alice Wakefield; Planner III Community Development/Planning and Zoning Jackie Deibel; Recreation and Parks Director Joe Glover; Economic Development Manager Bill Keir; Planning and Zoning Director Brad Townsend; Community Relations Coordinator Kimberly Johnson; Police Chief Dwayne Orrick; Fire Chief Ricky Spencer; Deputy Fire Chief Ricky Burnette; Deputy Fire Chief Tony Papoutsis; Deputy Fire Chief Paul Piccirilli; Deputy City Clerk Betsy Branch.

Pledge of Allegiance

City of Roswell Fire Department

CONSENT AGENDA

1. **Approval of October 10, 2011 Mayor and Council Meeting Minutes (detailed minutes to replace Council Brief minutes adopted on October 24, 2011); Approval of October 24, 2011 Mayor and Council Meeting Brief; Approval of October 31, 2011 Mayor and Council Open Forum Brief.**

Administration

Approved

2. **Approval for the Mayor and/or City Administrator to sign an agreement with Tractor and Equipment Company to purchase a used Motor Grader in the amount of \$125,000.**
Transportation
Approved
3. **Approval for the Mayor and/or City Administrator to sign a Supplemental Agreement for the Midtown Streetscape Project with Urey Companies in the amount of \$31,227.62.**
Transportation
Approved
4. **Approval to modify the design contract with Clark Patterson Lee for the MARTA Hembree Road Multiuse Path Project in the amount of \$27,455.**
Transportation
Approved

Approval of the Consent Agenda

A motion was made by Councilmember Price, seconded by Councilmember Diamond, for Approval of the Consent Agenda. The motion carried by the following vote:

In Favor: 6

REGULAR AGENDA

Mayor's Report

1. **Recognition of Roswell Fire Department's Fire Educator, Chris Cooper being named "Fire Safety Educator of the Year" by Georgia Insurance and Safety Fire Commissioner.**

Fire Chief Ricky Spencer recognized Assistant Fire Marshall Chris Cooper and said he had started with the City of Roswell Police Department in 1983 and moved to the Fire Department in 2002. Since his employment with the Fire Department, he had taken on the Fire Safety Education Division and moved the program into a new level of education with children and adults in Roswell. He taught fire safety in the Fulton County School System, averaged over 300 classes per year, and made over 10,000 contacts. In 2006, the Roswell Fire Department was recognized and awarded the Fire Safety Prevention Program of the year in Georgia through the help of Fire Marshall Cooper. In 2008, the Roswell Fire Department was awarded \$63,000 for a fire safety trailer through a FEMA grant that Marshall Cooper authored and

administrated. He has always been involved in Safety Town one of the premiere Roswell events put on by the Recreation and Parks Department along with the Fire and Police Departments as well as other departments in the City that provides child safety education. Fire Marshall Cooper is a member of the Georgia Public Safety Educator's Association and has been given the fire mark award from Liberty Mutual for his dedication to improving the lives of citizens of Roswell through fire and life safety programs. He was honored this year as the Georgia State "Fire Safety Educator of the Year" presented to him October 11, 2011, at the Georgia Public Safety Training Center by Ralph T. Hudgens, our Insurance and Fire Safety Commissioner. Chief Spencer said he was pleased to have Mr. Cooper on the Roswell team. The award read, "2011 Fire Safety Educator of the Year presented to Chris Cooper City of Roswell Fire Department, Roswell Georgia for your professional attitude, and personal commitment to providing fire safety education in the lives of citizens of Roswell. Your dedication in providing fire prevention education through the community is exemplary. Given by Ralph T. Hudgens, Insurance and Fire Safety Commissioner, October 11, 2011."

Mayor Wood called Chris Cooper forward and asked him to give the fire safety tip of the week. Mr. Cooper said there has been one almost every day. He noted that the focus of the fire safety program is the children. He noted that the leading cause of fires in the United States is unattended cooking which are not the fires that typically injure residents but they do a lot of damage, and are easily preventable. Mr. Cooper said they carry that message along with the smoke detector message to the schools; there are some great schools in Roswell; some only allow us in for 3 or 4 weeks at a time. Sweet Apple Elementary school is an exception and they are there typically about 10 weeks of the year. Mr. Cooper said firefighters do not do this program in order to get awards; it is conviction and we enjoy doing it. Mr. Cooper expressed his appreciation for the time that the Mayor and Council and the residents of Roswell take to acknowledge Roswell firefighters.

Mayor Wood asked all the firefighters to come forward for a photo op with Mayor and Council.

2.

Reading of a Proclamation for National American Indian Heritage Month.

Mayor Wood read the proclamation stating the history and culture of our nation has been significantly influenced by American Indians and its indigenous people and the contributions of American Indians had enhanced the freedom, prosperity and greatness of America today. Native American awareness month began in 1976 and recognition was expanded by Congress and approved by President George Bush in August of 1990 designating November as National American Indian Heritage Month. Mayor Wood proclaimed November 2011 as National American Indian Heritage Month in the City of Roswell and urged all citizens to observe this month through appropriate programs, ceremonies and activities.

3.

Reading of a Proclamation for Geography Awareness Week.

Mayor Wood recognized the Geographic Information Systems Services (GIS) department and said they had revolutionized record keeping and systems in government. He read the proclamation stating GIS day was introduced in 1999 by the Environmental Systems Research Institute (ESRI) in coordination with the National Geographic Society. GIS was instrumental in creating and implementing programs that helped with more timely emergency responses and supported efficient operations of water, street, public buildings, addressing and public safety. The City of Roswell has had a dedicated GIS division since 1990. In 2004, Roswell's zoning

map was featured in the annual ESRI map publication representing exemplary maps from around the world and recently a new website was created for public employees to show representations of land records, economic development, subdivisions, transportation, public works and zoning. He announced that the City of Roswell's GIS department would host an open house for the public on November 16 from 10am-2pm at Roswell City Hall; maps will be displayed representing the different aspects of the City of Roswell, and a demonstration of software and highlights of what GIS means and how it helps our community. He proclaimed the week of November 14-19, 2011 as Geography Awareness Week in the City of Roswell and asked all citizens to acquaint themselves and recognize the contributions the GIS division officials made every day for their safety, comfort, quality of life and efficiency of government.

Mayor Wood asked Director of Community Development Alice Wakefield to explain how people could go online to the GIS system. Ms. Wakefield explained that they would go to the Community Development Department's landing page and pull down for GIS and follow the prompts; questions could be addressed to Scott Huffman, the GIS Manager, or herself. Mayor Wood asked what could be learned about Roswell on the GIS page. Ms. Wakefield replied for example, you could look at your property to find out if it was in a floodplain or see the footprint of the structure on your property on the aerial photographs, find out in what subdivision you are located, or how your property relates to the rest of the City. She said there is a long list of information and is a good research tool especially for planners but also as a tool that provided visuals of different parcels. Mayor Wood said you could see a bird's eye view of your property on the map. Mayor Wood expressed his appreciation to Ms. Wakefield and the GIS Department.

Community Development - Councilmember Betty Price

4.

DRB Appeal of the October 4, 2011 decision of the Design Review Board regarding DRB11-37, stadium lighting and sound system.

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Bradford D. Townsend said this was an appeal of the Design Review Board decision for Fellowship Christian School related to their field lights and sound system. He displayed an overhead slide of the section of the code related to Council hearing the decision, that the decisions would be made based on the record presented at the Design Review Board (DRB), and substantial evidence standards would apply. He said the minutes of the two board hearings of the DRB, as well as the information supplied to DRB related to the sound and lights were included in Council's backup material.

Mayor Wood stated this was not a full review of the earlier Council decision to allow the conditional use permit for stadium and lights, that the ability for Fellowship School to have lights and a public address system was not being reviewed. The DRB decision had been made and was outside the authority of the DRB to overturn that decision. He said the issue before Council was not whether or not those uses were allowed; the only issue before Council was the design of the lights and sound system. He said if anyone wished to address something beyond that they would be ruled out of order. Only the design of the lights and sound system could be addressed; new evidence could not be brought to Council; and they would only be allowed to argue what was heard in early hearings. He said given that the burden was upon the appellant, they would hear from them first.

Applicant:

Donald A. Rolader, 11660 Alpharetta Highway, Suite 630 Roswell, Georgia stated that he represented Fellowship Christian School, which was the applicant in DRB11-485 and DRB-37, and his comments would be directed to the record. He said the Roswell City Council had approved a conditional use application by Fellowship Christian School on July 11, 2011, subject to nine (9) conditions and the time for challenge or appeal of that decision expired August 10, 2011. At that time, the conditional use became final and no appeal was made. Pursuant to conditions five (5) and nine (9) of the approval, Fellowship had made application for review of the lighting system and sound limiting system with the Roswell Design Review Board. The only matters for consideration in that application were the lighting system and sound system for the stadium to be constructed. The DRB considered the application on September 6, 2011 and Fellowship made a full presentation on the two issues including presentations by the sound system vendor and its lighting vendor, Techline Sports Lighting. The systems and equipment presented by the vendors were the same as made before the Roswell City Council on July 11, 2011. No alternative systems were presented by the DRB or on behalf of the City. The DRB elected to consider the hearing preliminary and took no action on the application at that meeting. A final hearing was held on the application on October 4, 2011 and at that meeting no alternative systems were presented by the DRB or on behalf of the City and no indications were entered into the record that the systems and equipment presented would not perform as indicated. At both hearings, DRB members discussed issues not related to the matter at hand and public comment was received, which comment was generally addressed to the zoning conditions and demands for additional conditions. That subject matter was not within the authority of the DRB. At neither hearing was any substantial evidence introduced that the sound and lighting system proposed would not do what they were designed to do. The vendors confirmed that the systems were state of the art and were using the latest technology and cited pages 8-10, 18, 28, 32 and 37 from the September meeting to reference that. Those were confirmed again at the October 4, 2011 meeting. Sound was discussed at page 2 and lighting was discussed at pages 4-6. There was substantial evidence that the limiter device prevented sound levels outside the property above ordinance levels and that the 80-foot pole height more effectively limited light spilling outside the property lines than 60-foot poles. There was no evidence to the contrary. The result of the vote at the final hearing on October 4, 2011 was a 2-2 tie with one abstention. Under the Roswell City Code, a tie was a denial. Mr. Rolader stated the appellant appeals the October 4, 2011 decision of the DRB pursuant to Section 31.2.9 of the zoning code and respectfully asks the Council to reverse the DRB decision and approve the sound and lighting systems proposed by appellant. Based on the substantial evidence rule set out in Section 31.2.14 of the zoning ordinance, the appellant insists that this appeal be conducted on the record as provided in the zoning ordinance; and the appellant objects to any consideration or discussion of matters not on the record. Mr. Rolader said the appellant was hereby informing the Mayor and Council that this objection shall be renewed with each and every speaker permitted under the public comment and asked that the Mayor note this objection at this time so we would not unnecessarily interrupt the meeting.

Mayor Wood said the objection was noted.

Mr. Rolader said any consideration of matters not in the record was damaging to appellant and denied the appellant a right to a fair hearing and violated the appellant's rights to due process and equal protection of the laws under the Georgia and United States Constitutions. He said the only issue to be decided on this appeal was whether there was substantial evidence to approve the sound and lighting systems proposed by the appellant and they deemed it apparent there was no

substantial evidence that they failed to meet those criteria. He said we respectfully request your decision on this issue and would like time for rebuttal should it be necessary.

Council Comment:

Councilmember Dippolito said there had been discussion regarding having louvers in the lights on page 25 of the minutes and the information they had been given which apparently was a copy did not show the louvers in the lights. He asked if they had incomplete information. Mr. Rolader asked Councilmember Dippolito to repeat the question. Councilmember Dippolito responded there was a discussion at the DRB about having louvers inside the lights so when you looked at the light it protected from the glare of the bulb itself. He said he did not see the louvers included in the information that Council received. He asked what they were voting on tonight because there had been a discussion in the record about having louvers and the drawings that supposedly were in the record did not have them. Mr. Rolader replied he understood the louvers were presented and included because they create a 24-degree deflection in the lighting so you cannot see the direct glow of the bulb off campus. Councilmember Dippolito asked then if the louvers were included. Mr. Rolader replied he was not there that night but that was the best he could tell him from reading the record.

Mayor Wood repeated the question and said as proposed tonight, are the louvers included or not and said it was a simple question. Mr. Rolader replied the louvers were included. Mayor Wood asked Councilmember Dippolito if that answered his question. Councilmember Dippolito replied yes.

Councilmember Price asked Mr. Rolader to clarify the height of the poles. Mr. Rolader replied 80 feet. Councilmember Price asked how many poles. Mr. Rolader replied four poles. Councilmember Price asked where the poles were located. Mr. Rolader replied two on each side at the 15-yard line and the goal line, as he understood.

Jeff Van Pelt, 12907 Etris Walk, responded to the question stating there were two poles on each side of the field against the track. He said one was on the end at the 15-yard line and the other at the end at the goal line based on where they would fit and that was where they were on the lighting studies they had done.

Mayor Wood asked if this was as presented to the DRB. Mr. Van Pelt replied yes, as presented.

Public Comment:

Janet Russell, 260 Willow Springs Drive, asked when this school was going to stop appealing every decision made by the Council, and now by the Design Review Board. She hoped Council would stand behind the Design Review Board and if not, why not just dismantle it. She questioned how many of the people attending the meeting that were representing Fellowship School actually lived in Roswell and if they did not they should have zero influence in the Council's decision.

There were no further public comments. Mayor Wood closed the public hearing and said he saw very little if anything for rebuttal.

Council Comment:

Councilmember Price said there had been confusion about the DRB's actions. There had been two meetings, the first one was an initial application and they were not required to make a decision that evening. The second meeting due to some absences and a new person on the board resulted in a 2:2 tie, which was not that

they overwhelmingly or even at any point voted against it. The appeal is because there was a tie and no decision, essentially. She thought all of Council's questions have been answered and that they were assured that these are state of the art, highly directional. They did not address the decibel max on the sound. She asked if they were supposed to do that or was that part of the motion that was then denied or did they even get to that point. She asked if they would be acting on the appeal or on other matters.

City Attorney David Davidson responded they were acting on the appeal; that was all.

First Motion: Councilmember Price moved to approve or grant the appeal.

Mayor Wood clarified that motion would approve the design as submitted by Fellowship Christian; that would be the result of approving this appeal.

Councilmember Price said there would be some amendments that would be necessary. She asked if she should add those at this point.

Mayor Wood asked Mr. Davidson if that would be within the scope of what the Council was entitled to do.

Mr. Davidson responded as long as it was based on what was presented to DRB, this Council could approve what was submitted and what was on the record, but they could not go outside of any of that.

Mayor Wood stated to Councilmember Price for further clarification, that the appeal had to do with the design of the lighting system and the design of the sound system. This was not the forum to discuss the hours of operation, the days of operation, or the uses. The Council had approved those uses, so if it had to do with the design of the site of the sound system or the design of the lighting system and based upon the record, that would be appropriate to include in the motion; the design of the system only, not the hours or the use.

Councilmember Price said she understood that. She said there was a lot of discussion of the DRB about decibel maximums and they of course reiterated that the applicant had already agreed to abide by the City ordinance, while normally schools were exempt. We know that is a base line, having referred back to our previous meeting. We did not get any clear direction from this as far as the decibel maximum on the sound system and any other ongoing monitoring of the light bleed.

Mayor Wood said first, going back to what conditions were approved with Council and asked if it addressed the decibel level.

Mayor Wood asked Councilmember Wynn what her recollection of that was. Councilmember Wynn directed her comment to Mr. Rolader and said she thought the school agreed verbally to limit the decibels to what she remembered was 65. Councilmember Wynn replied to Mayor Wood, that it was a verbal agreement they would do that.

Mayor Wood asked Mr. Davidson if that verbal agreement was binding to 65 decibels.

City Attorney David Davidson replied it was not in the conditions; however, the applicant was saying that was okay and it was in the motion. Mayor Wood asked if it was in the record. Mr. Davidson said it was in the motion at DRB; not in the Council's motion, but they agreed to follow the City's noise ordinance. Mayor Wood asked if

they were exempt from the noise ordinance. Mr. Davidson replied they would be but they agreed to abide by it at the Council meeting. Mayor Wood asked if that agreement was made at the Council meeting. Mr. Davidson replied yes.

Mayor Wood asked Mr. Rolader if it was correct that they agreed to the 65 decibels at the Council meeting and that would set the decibel level at 65. Mr. David Davidson replied that would. Mayor Wood asked if that was an issue anymore. Mr. Davidson replied that was not an issue.

Mayor Wood asked Councilmember Price if that satisfied her question about the decibel level. Councilmember Price replied she believed it was an issue because in the second meeting they discussed it repeatedly whether it would be 65 or 70 and she did not believe there was any resolution of that matter. Mayor Wood asked if she was talking about the DRB. Councilmember Price replied that was correct.

Mayor Wood said he understood that issue was previously resolved at the Council meeting at 65 decibels, not 70. Although things may have been discussed that went outside the scope of the Design Review Board, if that issue was resolved at the Council meeting and the Council meeting established a decibel level of 65 as being the maximum, that would be binding.

Mr. Davidson said what he believed was discussed at the Council meeting was that they would be bound by the City's noise ordinance. The discussion at DRB was what they would be considered as far as whether it was commercial to residential and he thought that was where the DRB's discussion went. He said he thought Mr. Flowers wanted them to be subject to the 65. Councilmember Price replied 65, yes.

Mayor Wood said he thought if they agreed to be subject to the city ordinance, it would be up to the staff to make the interpretation of what they are, not up to the DRB; DRB does not make those interpretations. He asked staff if they had made an interpretation of how they would be categorized under the City's noise ordinance. Planning and Zoning Director Brad Townsend said they had a noise ordinance exemption. Mayor Wood replied they said they would be subject to it. He asked if that was established at the Council level and if they were subject to it and were not exempt, how would they be categorized. Mayor Wood said he was trying to decide if the issue had been resolved and he was relying upon staff to look at that. Mr. Townsend said he was going to look for it in the City Code.

Mr. Davidson said the code was based on the receiving property being a residential property; the level was set at 70 decibel from 7 a.m. to 11 p.m. and at 60 decibel from 11 p.m. to 7 a.m.

Mayor Wood asked if they would be bound by 70 decibel for certain hours and 60 decibel for certain hours and was that staff's interpretation. Mr. Townsend replied yes. The Mayor asked Mr. Davidson if it was his interpretation that Council had ruled 60 or 70 based upon the receiving party. Mr. Davidson replied yes. Mayor Wood asked if it was a fair statement that it was at the earlier Council meeting. Mr. Davidson replied, "Yes sir, that was decided at Council and they agreed to be bound by it."

Mayor Wood asked Councilmember Price if she still had a question regarding the decibel level. Councilmember Price replied only that in their discussions, it looked like they were moving towards 65 and you are saying they had no authority to do that since it had been decided. Mayor Wood replied whether they are or not exempt from the noise ordinance goes beyond the scope of what the Design Review Board has the authority to decide and would exceed their jurisdiction; that would be either a

Council or a staff decision.

Councilmember Price stated we had agreement from the applicant at our last Council meeting that they would abide by 65 or 70 and asked which was correct. Mayor Wood replied they would comply with the noise ordinance, which says it has to be 60 decibels at certain times of the day and 70 decibels at other times of day; we agreed we would comply with that ordinance as if they were not exempt.

Councilmember Price asked if it needed to be further defined where that was audible and how detected. Mayor Wood responded that our noise ordinance defined that. Mr. Townsend replied yes, for the receiving property. Councilmember Price said it would be at the property line of a neighbor. Mr. Townsend replied at the property line of a neighbor was correct.

Councilmember Price said regarding the sound, we have that covered. The lights were a little confusing because there were poles that were going to be somewhere but they would not be there in the future. She asked if the poles, lights and sound were coexisting or totally separate.

Jeff Van Pelt responded that the only poles that would not be there in the future were the ones that would hold the speakers for the sound system because they would be mounted on a future building and after that was built they would take those poles down. He said the light poles were the same every time they presented them. Councilmember Price asked if there were five lights. Mr. Van Pelt replied there were four light poles that start at field level and are 80 feet high. Mr. Rolader said there would be two on each side. Councilmember Price said she read that there were five lights. Jeff Van Pelt responded what she had regarding some that would only be there for a little while and then taken away were for the sound system speakers and were only 12 foot high poles.

Councilmember Price said she had no additional amendments.

Second Motion: Councilmember Price moved to approve the light and sound systems with limitations as proposed by Techline for the lights and as proposed in the Dominator II Precision Multi-band Peak Limiter system for the sound. Councilmember Wynn seconded.

Mayor Wood asked if that was understandable by staff and the appellant and if everyone knew what that meant. He said he was not sure what that meant. Mr. Van Pelt replied that was what was presented.

Further Council Discussion:

Councilmember Igleheart said he thought when Council put this forward to the DRB, they were asked to figure out a lot of this, as generally done. Apparently, that was not what they were asked to do. Councilmember Igleheart stated that in the section of the zoning ordinance, it says they shall consider a design that protects adjacent properties from negative visual and functional impacts, which would be impacts of sound and other things. Councilmember Igleheart stated the applicant's fate was decided July 11, 2011, and there was not a lot to be done at this point. He noted that he did not vote for it but the majority did. Councilmember Igleheart said he was sorry, but there was not a lot to be done at this point.

Councilmember Price said we were told there was zero light bleed at the property line. She asked what would be the recourse if these lights are erected and there is bleed into the adjacent properties.

Mayor Wood asked staff if there is a violation of the conditions what would be the action of Council. Mr. Townsend replied depending on the violation they would be cited for not being in compliance and required to come into compliance. No further comments.

First Motion: Councilmember Price moved to approve or grant the appeal of the October 4, 2011 decision of the Design Review Board regarding DRB11-37, stadium lighting and sound system..

Second Motion: Councilmember Price moved to approve the light and sound systems with limitations as proposed by Techline for the lights and as proposed in the Dominator II Precision Multi-band Peak Limiter system for the sound. Councilmember Wynn seconded.

Councilmembers Diamond, Orlans, Price and Wynn voted in favor. Councilmember Igleheart opposed. Councilmember Dippolito abstained, stating he did not support the original motion. The motion carried by the following vote:

In Favor: 4

Opposed: 1

Abstain: 1

5.

RZ11-09 & CV11-02, 350 & 370 Rucker Rd., Ashton Atlanta Residential, LLC, Land Lot; 1240. *(This item was deferred from the October 10, 2011 Mayor and Council meeting)*
Presented by Bradford D. Townsend, Planning & Zoning Director

Planning & Zoning Director Bradford D. Townsend stated this item was a proposed rezoning to R-3A. The applicant was requesting the development for a single-family residential subdivision originally containing 28 lots and a concurrent variance to the minimum lot width from 80 feet to 60 feet. Mr. Townsend displayed an overhead slide and indicated the subject property with two existing homes with a church to the east and a subdivision to the north as well as west and single family homes to the south across Rucker Road. He displayed the current zoning map showing the FC-A as it was identified when the property was annexed into the City of Roswell.

Mayor Wood said he knew that there were a lot of issues about the connector and the trail. Mr. Townsend said the applicant started with a proposal that included connection to the adjoining subdivision through the public right-of-way. Following the neighborhood meeting, that connection was removed and a single cul-de-sac was placed for the single-family lots. Much of the discussions had been centered around the connection issue as well as the joint detention. It had been recommended for rezoning as well as the conditions dealing with the variance that would allow for the 60-foot lot widths. Mr. Townsend referred to a memorandum from himself to Mayor and Council that listed the seven (7) conditions that were placed on the property at the October 10, 2011 Mayor and City Council hearing. He discussed the conditions and said #1 dealt with which site plan is to be approved. Condition #2 was about the connectivity required by the Planning Commission and the connectivity as a street was removed and replaced by a pathway. Condition #3 dealt with a left turn lane that was originally placed on the property to be installed by the applicant but after numerous discussions had been removed and replaced by the applicant giving a sum of \$50,000 to the City for future improvements to Rucker Road prior to the issuance of a building permit. Condition #4 dealt with the Crabapple Registry and the applicant

having a joint stormwater management, dealing with the detention pond being co-mingled for both subdivisions at the north end; there would be only one detention between the two subdivisions. Condition #5 had been complied with; they provided the 20' landscaping. Condition #6 dealt with making sure there was no access to Rucker Road from the subdivision. Mr. Townsend said the way this was presented prior to deferral, conditions #1, #2, #4 and #5 had been amended; #6 had been replaced; #7 was removed. That was the point this was at when this was deferred at last Council meeting. There has been numerous discussions about detention, connection of the access road and what type of connections that would be.

Mayor Wood asked if staff had a position on the proposed ground connection. Mr. Townsend replied staff began with it being a road and believed it should be a road. Mayor Wood asked if Council accepts the proposed trail connection as shown on the drawing dated November 1, 2011, would that need to be expressed in the form of a condition. Mr. Townsend replied condition #1 should be amended to include that drawing. Mayor Wood asked who would build the proposed pervious trail. Mr. Townsend replied Ashton Woods would be responsible for the connection of the pathway from their subdivision to the asphalt in the Crabapple Registry subdivision. Mayor Wood asked if they would cross the City right-of-way. Mr. Townsend replied they would use City right-of-way to connect to the road. Mayor Wood asked if the detention common area would also become right-of-way, to some extent. Mr. Townsend replied no, none of the detention common area is right-of-way; this is common space in their subdivision. Mayor Wood asked if this would be used in perpetuity for a trail. Mr. Townsend replied if Council chooses to approve this. Mayor Wood asked if there should be a trail easement as a condition. Mr. Townsend replied a trail easement over the section of the common space. Mayor Wood asked if there would be a wide enough trail easement for maintenance if in the future the City needed to maintain the trail and if Council chooses not to require the street connection and instead have the trail connection, would we need a condition and an easement to express that. Mr. Townsend replied yes. Mayor Wood asked staff to provide a proposed draft for that if Council chose that direction. Mr. Townsend indicated he understood.

Council Comment:

Councilmember Dippolito said the path veers to the south; he asked if that was because there was a fire hydrant potentially located in the north part of the right-of-way. Mr. Townsend pointed out the area on the drawing. Councilmember Dippolito asked if there was an exact location for the hydrant and if it would be possible to get it on the other side to the north. Mr. Townsend replied no.

Councilmember Diamond said she did not see a reference to condition #6 on the recommendations of staff about the plat indicating a no access easement for the two lots along Rucker Road. She said she did not see removal or recommendation on the list. Mr. Townsend replied it would be included in their staff recommendation. Ms. Diamond thanked Mr. Townsend.

Applicant:

Pete Hendricks stated he practiced law at 6085 Lake Forest Drive, Sandy Springs and was representing the applicant. He said there had been a lot of mutual outreach between the applicant Mike Busher for Ashton Woods Homes and Crabapple Registry over the access and detention issues. He said after all the discussion both parties were completely agreeable to shared access from Crabapple Registry's perspective provided there not be any level of inter-parcel access between the two subdivisions and that would result in a 28-lot subdivision. If that fell by the wayside and they could not gain the support of Crabapple Registry to have the shared detention because of the requirement of the inter-parcel pathway access being

discussed, they would default to the plan dated November 1, 2011 with 27 lots and with detention completely on the Ashton Woods tract and Ashton Woods providing the trail access over to the property line and, if it is Council's directive, it would continue through Crabapple Registry. He said that was where it stands now and they were in a position to go with either choice; it is within Council's discretion as to how the community would be best served.

Councilmember Dippolito said the stormwater eventually goes into their detention facility anyway; he asked if that was approved by staff.

Sotir Christopher, Christopher Planning & Engineering, 280 Settindown Court, Roswell, Georgia; civil engineer for Ashton Woods, said it currently drains in through their pond but that pond does not provide detention for their improvements; therefore they would have to piggy back and have a pond on their site that would continue to drain through their pond to the discharge point. They would factor in modeling both ponds together to make sure they were not increasing flows in compliance with the City ordinances and regulations.

Councilmember Dippolito asked if that was customary for one subdivision's stormwater to flow into another detention facility.

Mr. Christopher replied, "At times, if there was an upstream base and it was modeled and had to go through your pond, then you have to account for that. You do not detain for it but you have to account for that flow passing through your pond. It's not typical to see a pond back to back and that was why there was a big push to do a combined detention pond." In a lot of cases, a detention pond for a development whether commercial or residential would carry off-site water through the pond; it doesn't provide detention for that water but it has to pass through and flow downstream to where it was going originally.

Councilmember Dippolito asked if it was originally going into the Crabapple Registry subdivision. Mr. Christopher replied that was correct; there is an inlet next to where the 10' trail would be that would collect the majority of the Ashton Woods tract and routes it through the pond to the north to North Farm subdivision. Councilmember Dippolito asked if the water was currently flowing into the right-of-way into that inlet. Mr. Christopher replied that was correct.

Applicant:

Mike Busher, Ashton Woods Homes, 1455 Old Alabama Road, Roswell, Georgia thanked the members of staff including Brad, Jackie, Steve, and David in particular for helping them get through that and said they had done a great job helping architect this. He also thanked Anthony Russell and the Crabapple Registry because they had tried very hard to reach a compromise. He said two points were taken from the meeting last time, which was to define the scope, and terms of conditions of a shared agreement and the pedestrian path was very important. He said they had been silent on it because there had not been an outcry to have it, but that was not the message they took the second time around. He said they were at a bit of a stalemate tonight in that they do have an agreement with Crabapple Registry upon which they could share detention; however, that agreement is very much conditional on not having a pedestrian path in the right-of-way. He said he was not able to grant that because he had heard the opposite from Council. He said what you would probably hear from Crabapple Registry is they do not want the path. He said as the applicant, they would default to Council on that decision and would request a vote in favor of one of the plans but that was the reason they have the alternative sketch with detention on their site with a pedestrian path that connects. He said if the location were in dispute, they would be happy to work with both the City and Crabapple Registry as long as it

was in the right-of-way and in a favorable location; he realized that it would be at Ashton Wood's expense.

Public Comment:

Anthony Russell, 12198 Limeridge Court, Alpharetta, Georgia, Crabapple Registry's HOA President said he would echo what Mr. Busher had said. After meetings with Brad and his staff and members from Transportation, they went to the drawing board and came up with a solution that would allow the City to achieve the regional detention and connectivity of the two parcels without the actual construction of a trail; if there were an opening or gate added between the two subdivisions without putting down gravel or some type of surface that would allow movement between the two areas as a pass through between the two subdivisions, Crabapple Registry would support regional detention, but if Council preferred a trail, they would not support the regional detention. He said with the shared detention they could achieve connectivity, with a trail they are not willing to share a detention. He said he was confused about comments regarding how the flow from the proposed Ashton Woods pond into Crabapple Registry's pond would be achieved. He asked if that would require constructing some type of pipe between the two facilities. He said if a trail needed to be built, he would oppose it going through the center of the strip of land, he thought that was not necessary. Perhaps there was room for it on the north side of the strip of land hugging the pine straw area; along the pine straw there was a fire hydrant square in the middle of the parcel that was the City's easement.

Mayor Wood said he thought the site plan showed that area and he would get to the question of where the trail runs but he first wanted to address Mr. Russell's question about how the water flows downstream from the detention pond on the Ashton Woods property. He asked the engineer to come forward to explain the outlet structure and said that was not shown in the detention plan. He asked to have the site plan displayed on the overhead.

Sotir Christopher indicated a storm inlet just south of the proposed path so the rainwater that hits the Ashton tract would drain into that inlet and into the pond. Mr. Christopher said they provided detention and indicated the outlet structure draining out into the North Farm subdivision. Mayor Wood asked if this inlet was a new facility on Ashton Woods property or an existing facility on the city right-of-way. Mr. Christopher replied it was not a new facility. Mayor Wood asked if it flowed from their detention pond through a pipe and into the existing facility. Mr. Christopher replied, yes, their stormwater runoff would be collected in a pipe system and routed through their detention pond and collected in an outlet structure down to where it was currently flowing. Mr. Wood asked if their detention pond would slow the flow of water, store it, and slowly release it through the existing culvert system. Mr. Christopher added that would be at the existing rate that it was currently flowing.

Mayor Wood asked Mr. Russell if that answered his question regarding how the flow from the pond would work.

Mr. Russell asked Mr. Christopher if it would only flow into Crabapple Registry's pond if the Ashton Woods pond filled up; that is how theirs currently works; an overflow spills into a bunker that goes into a pipe. He asked if the Ashton Woods pond would operate the same way.

Mr. Christopher replied that is a conventional detention pond and the outlet structure had different openings to allow a certain rate of water to pass through. Ashton Woods would be held by City ordinances and regulations and could not adversely affect the Crabapple Registry pond. The two ponds would have to be modeled together to make sure they would not be increasing the peak flow from

predevelopment to post development.

Mayor Wood said it would not have to rise to the top of the level of the detention pond but the rate of flow should be no greater than what the rate of flow is today. He said the idea of a detention pond is to extend the time under which it flows and if there is a rain event it slowly comes out of that pipe, is sized by that pipe, and should not increase the burden upon Crabapple Registry's detention pond. Mr. Christopher said he understood the explanation.

Mayor Wood asked about the trail system. He said it appeared from the site plan the reason they had to route the trail to the south of the hydrant was that there was not enough room between the hydrant and the edge of the property. Mr. Russell said he disagreed with that. Mayor Wood said he understood the disagreement; he asked if they had considered the possibility of granting an easement on the common area detention water facility so the trail could be routed with plenty of room north of the hydrant. Mr. Russell said Councilmember Dippolito had suggested that last week and it would be something they could discuss with the City. Mayor Wood said he would support that and said there was a benefit of one detention pond and the reduced cost of maintenance if it was shared. He said he understood that Mr. Russell's only objection to a common detention pond was to the current location of the trail. Mr. Russell replied "No, we do not want a trail at all." Mayor Wood said then it is not just the location but you would rather not have the trail at all. Mr. Russell said they would rather it retain its current state of a grassy area and said they were not opposed to the connectivity but opposed to the addition of the trail surface. Mayor Wood said then regardless of where the trail surface was they would object to that. Mr. Russell replied yes. Mayor Wood apologized and said he misunderstood. Mr. Russell showed Mayor and Council a picture from his cellphone of the piece of land and indicated on the picture that the fire hydrant was 30-40' from the north end of the common area. He said if a trail was built it should be built against the north end of the trees in order to maintain as much of the grassy area as possible. Mayor Wood said he agreed but thought Mr. Russell was saying that whether the trail moved north of the hydrant or not, they would still be opposed and it would not make any difference in a common detention area. Mr. Russell said they are opposed and feel a trail would not be used there; a grassy area was more favorable to them. Mayor Wood said he understood their position.

Mr. Russell referred to the point the Mayor had made about a reciprocal easement on the Ashton Woods property similar to what the City was maintaining on the Crabapple Registry property and said he would agree there should be some type of easement there so the public could use both sides of the trail. Mayor Wood said yes that easement would be there and it would be held by the City and could be used by the general public. Mr. Russell asked how the maintenance of the trail and the grassy area that was the easement would be handled by the City. Mayor Wood said he presumed that once it was built and dedicated to the City it would become the City's responsibility for maintenance. Mr. Russell said Crabapple Registry has been maintaining that piece of land for the past six years and asked if the City was proposing to take over maintenance of the grassy area once it builds a trail there and made into a public use facility. Mayor Wood replied if it became part of the public use then it would become the responsibility of the City. Mr. Russell said he thought it should become the responsibility of the City if they build the trail otherwise they would continue to maintain it as before.

Michael Harmon, 12203 Limeridge Court, Alpharetta, Georgia thanked Council for listening to them over the past several weeks. He said he would not speak much about the connectivity issue because it was not his land but he said he did not understand why the church next to them had no connectivity as well because the

entire City of Roswell was all about connectivity. He asked why we no longer hear about that and asked if someone could address the question; he had previously asked but had not received an answer.

Mayor Wood asked if Mr. Harmon was referring to why they had not addressed connectivity in the past. Mr. Harmon said no sir, connectivity to the church that should also have been connected that was originally proposed and then taken away. Mayor Wood said it should have been connected and if we were able to do it again, we would connect it but unfortunately in the past we did not require connectivity and cannot require it after the fact.

Mr. Harmon said they could make the best decision on the pond and the road but his concern was with safety and density, which should be no more than three homes per acre similar to communities around the area. He was concerned about why there was not a turn lane on Rucker Road; he referred to zoning case, RZ07-03, and said it was important because it was directly across the street from the property and thought it should be reviewed and displayed it on the overhead. He pointed out one of the conditions that he thought was Brad Townsend's recommendation that the subdivision total be no more than 17 lots, which would bring it under three units per acre. He said that had been pointed out before and the City had made a motion on it. He cited another case on Nesbit Ferry Road and said the City had a suburban designation of between 2 and 2.5 units per acre. He asked why Ashton Woods is allowed over three homes per acre. Mr. Harmon displayed a plan on the overhead which stated that James R. Erickson at 365 Rucker Road in Alpharetta was one of the people who proposed the plan in 2007-2008. He read a letter from Mr. Erickson as follows, "I have two concerns about the proposed project for the Spruill property. Our property at 365 Rucker Road across the street petitioned the same body during the 2007-2008 timeframes. Our developer had requested three units per acre. Not only were we denied the zoning but were rezoned from AG-1 to R-2. As a result, our taxes have increased and lost any possibility of selling the project to developer due to the lower density zoning. Now we are facing foreclosure. The Spruill's have been good neighbors and I only wish the best for them. But, if you approve this request, anyone that knows the facts can see the unfairness of what happened. My second concern is about traffic. There must be some type of turn lanes for traffic control. It is not unusual for us to sit as long as five minutes to get out of the driveway and onto Rucker Road due to the heavy traffic. To approve this project without any improvement of traffic flow is going to create an even bigger headache." Mr. Harmon presented the letter to Council. Mr. Harmon referred to the \$50,000 earmarked for future road improvements and asked if the City agreed there were traffic safety problems on Rucker Road.

Mayor Wood asked Transportation Director Steve Acenbrak if Transportation staff supports the condition that in lieu of a turn lane Ashton Woods would pay \$50,000 for future improvements. Mr. Acenbrak replied yes sir. Mayor Wood asked what the logic was behind supporting that in lieu of a turn lane. Mr. Acenbrak replied this improvement generates the need for turn lane improvements and the applicant claimed a financial hardship that if they were asked to build this in total, then financially the numbers would not work. Therefore, staff wanted to make the point that the requirement for the turn lanes was important but accepted the fact that it would probably be \$150,000-\$200,000 to make the needed improvements with the tapers and sight distance, and those sorts of things. Mr. Acenbrak stated staff basically went into a partnership of sharing the cost of making the needed improvements. Mayor Wood asked Mr. Harmon if that answered his question. Mr. Harmon said yes, and if he was correct in hearing what Mr. Acenbrak said, there was a problem. He said if the City is holding money why is there not a timeframe for the expansion of Rucker Road. He asked if the City would be accountable if there was

an accident or fatality. He said he felt the turn lane could save a life and if the City had the \$50,000 now, they should do something with it now to save a life now.

Mayor Wood asked Mr. Acenbrak if this road is actually one of the projects in the Transportation Investment Act. Mr. Acenbrak replied yes. Mayor Wood said to some extent the timing of improvement on this road is tied to passage of the Transportation Investment Act that would be voted on in June of 2012. Mayor Wood asked Mr. Acenbrak if the Act should pass, how much money was in the project for Rucker Road. Mr. Acenbrak replied it is part of a project that combines Milton, Alpharetta and Roswell and the figure is approximately \$17-20 million for operational improvements to Arnold Mill, Rucker, and Houze Roads. Mayor Wood said if the Transportation Investment Act passes, this road will be re-designed and this issue addressed. Mr. Harmon said that was the problem. If the Act does not pass this money should be earmarked and a turn lane should go in within twelve months. He said the pond is one issue but no one is going to die over a trail or pond but someone is going to die on Rucker Road. He said there was a problem and it seems that is being admitted. He asked if a trip generation study had been done. Mr. David Low, Deputy Director of Transportation responded there was a trip generation estimate for this. Mr. Low explained that single-family residential homes generate about ten trips per day and with 28 lots that would be 280 trips per day. Mr. Low stated he did not have the exact date of the report but it was done just a few months ago and he could provide Mr. Harmon a copy. Mr. Harmon referred to an email from the Rucker Road proposal in the past that read, "Roswell's Standard Construction Specifications." He said his entire point with the connectivity issue was he that had been told repeatedly that Roswell wanted connectivity. He said he would like some uniformity of what Roswell was striving for and if Council approves the current plan it would not be concurrent with what should be.

Mayor Wood stated that Brad Townsend could address land use issues; Steve Acenbrak would address transportation issues. Mayor Wood stated safety is always of utmost importance for the City but in making decisions regarding road improvements they must look at the cost benefit, and he understood from staff that although it was a concern it was not of a high concern. Mr. Harmon said he would refer to a statement and asked why at that time the City required them to have a road and yet now they are not requiring Ashton Woods to put in a turn lane. Mr. Acenbrak replied he did not understand the question. Mayor Wood stated it was hard for staff to go back and address another matter and the logic behind a decision related to it. Mayor Wood said he appreciated Mr. Harmon's questions. Mr. Harmon said he understood that but his point was that this was in the same area just across the street and the City had come up with a plan for the same area then; he asked why it was different now; the traffic on Rucker Road has probably gotten worse. Mr. Acenbrak explained that the area around Rucker Road was previously owned by Fulton County. He said Crabapple Registry was not permitted and platted by the City of Roswell but was platted when it was in Fulton County. When the annexations occurred at the advent of Sandy Springs becoming a City, there was a movement to incorporate all of the unincorporated areas and different parcels went through different elected officials and different municipal codes. He said he understood Mr. Harmon's point that it was just across the street, but it was not the City of Roswell. He said Fulton County had different elements and went through a different process. Mr. Harmon replied that his point was that the City was accepting the \$50,000 from Ashton Woods and why would the City take that if there was no problem or if it is a problem that could wait. He said Roswell has different standards than Fulton County; the City was now requesting 80' instead of 60'. He asked why would they go back to the Fulton County way. The whole connectivity thing was to get to Roswell's standards so why drop the standards here. Mr. Acenbrak replied he was comparing apples and oranges. Mr. Harmon said regardless of the situation, the City was

getting \$50,000 and asked if that was correct. Mr. Acenbrak replied that was correct. Mr. Harmon asked why the City would accept \$50,000, if there was not a problem.

Mayor Wood said he supported the acceptance of the \$50,000 and it would be held for use when there is a larger scale improvement of Rucker Road to reinvest into Rucker Road to make it safer. Mr. Harmon replied he did not disagree with that but there should be a time limit of 12 months. He asked if he was correct about contract law that it had to be earmarked for a period of time. Mayor Wood replied that was incorrect. Mayor Wood replied it does not have to be earmarked for a period of time. Mayor Wood said the City believed it was appropriate in this circumstance to wait to address this issue until all improvements are made on Rucker Road and to set aside the money to add to what the state would be providing. Mr. Harmon said in the meantime we adhere to connectivity and do all the things that Roswell wants; he noted that a few months back the City proposed a needed turn lane and asked why that was taken away. Mayor Wood said it was further considered and the City appreciated the safety of all of its citizens, but priorities had to be set for each of the issues according to those that had the most unsafe conditions. Mr. Harmon said traffic safety is very much a debated topic; he wanted to know who was going to be accountable. Mayor Wood replied the City. Mr. Harmon said that was what he wanted to know; this had been a long process and he appreciated Council's time and interest. Mayor Wood replied the City appreciated his interest.

Sreeman Jannu, 12191 Limeridge Court, said he lives in Lot #16 next to the green space and is the one most affected by Council's decisions. He stated Crabapple Registry is asking is to maintain status quo whatever it is in Crabapple Registry and is open for the connectivity but we don't want anything new on our subdivision that may affect our neighborhood and green space, or if there is any in the future. He stated that today, he asks that Mayor and Council maintain the status quo. Mr. Jannur said, "Whatever you want of the connectivity we are open for the connectivity. If you want to share the detention pond we want to make Ashton Woods to share that detention pond."

Mayor Wood thanked Mr. Jannu. The Mayor said what some people did not recognize was that he hoped Council would support a compromise regarding the connectivity. The Transportation department requested a paved road. He said the plan Ashton Woods had presented was a compromise between a paved road and what the future land use calls for or a gate and no connectivity. He saw that as a compromise and he supported a compromise. The question had been raised as to why they were not asking for connectivity with the church. He said if he was in a position to ask for connectivity for the church and they were asking for a development plan, he would be asking them for that. He said he hoped Council would continue to ask for connectivity whenever the opportunity arose. The fact that we have missed those opportunities in the past was a lack of foresight and the lack of recognition for the need of connectivity, which he thought they all now recognized. Mistakes made in the past do not justify making mistakes in the future. He said the status quo was that this showed a road connecting the two developments and they were now asking for a compromise from the status quo to eliminate what would have been a connector street and replace it with a pervious connector. He said he understood Crabapple Registry had no objection to the connectivity at least that was what the HOA was saying but they would rather it not be paved. He is concerned that if the City became responsible for the maintenance, it would require more maintenance because it was not paved.

Mr. Jannu said he disagreed with a couple of points that Mayor Wood had made. This was the first time transportation proposed connectivity from Ashton Woods. In the first plan, the transportation department asked for "seven rules." One was there

should also be connectivity between Ashton Woods and the church. Mr. Jannu said he thought the City could go back to the first original plan, which the transportation department approved.

Shereath Kundur, 12186 Limeridge Court, Alpharetta asked if it was correct that this connectivity was only between these two subdivisions. He understood having all the subdivisions interconnected but connecting just these two subdivisions did not make sense. He said we could have a small gate or something where we could interact with the next subdivision but having a trail really does not make any sense.

Mayor Wood responded that it made sense to him. It is just two subdivisions but the City is trying to create a system of connecting all subdivisions. He said he could remember when he was young and it would have been nicer not to have trespassed across people's yards but have an actual public connection to use. In addition, the Mayor said he liked connections because in cycling, they try to connect between different things and this would create the same sort of connection whether you are 10 years old or 62 years on a bicycle, it gets you around. He said from the City standpoint, we try not to have separate neighborhoods; we want neighborhoods to communicate with each other and become a part of each other. He said he hoped if Council passed the connectivity, Crabapple Registry would be able to visit neighbors with a short walk and not by going through someone's backyard but with a pedestrian connectivity.

Mr. Kundur replied they were for connectivity but not with anything paved on their side; they could have a gate and pass through between the communities once the Ashton Woods subdivision was constructed. He could not see how that subdivision could be connected to the church and thought the connectivity would stop between the two subdivisions.

Mayor Wood said from past experience working with the church off Holcomb Bridge Road in building a trail there, they loved the opportunity of having a trail connecting their church with the Horseshoe Bend neighborhood because churches need to recruit families and the best place to recruit is from within their neighborhood. He said there was no better way to get people to come to your facility than to have a pedestrian connection and hoped in the future this church would see the wisdom of this. The City of Roswell's goal was to create connectivity within the city whenever there was an opportunity.

Mr. Kundur replied he did not see that in the near future and that was his concern. Mayor Wood said he hoped they would see the connectivity and he would try to try make it happen.

Council Comment:

Councilmember Orlans said he wanted to clarify that the connectivity to the church was in the original plot and the only reason that was adjusted was to try to work with Crabapple Registry subdivision to eliminate pavement going through there. He said everyone kept referring to why they were not connecting to the church but Crabapple Registry was the reason. He said we could easily go back to the first site plan and connect to the church and it would connect to Crabapple Registry as well. He said we were trying to work with Crabapple Registry with all the different angles. He said he thought Mayor Wood was thinking earlier they did not get a connection on the church property but that was not what they were talking about; they were talking about the connection in the original subdivision.

Mr. Kundur said he was only talking about connecting these two subdivisions; they were not trying to accomplish anything; they could still connect the two subdivisions

with some kind of entrance without any pavement between them.

Councilmember Diamond said she agreed with Mr. Kundur that there should be a path on the church side even just a pedestrian path and we should look at how that might be accomplished. There was a pathway made ready on the other side of their subdivision for when that property might be developed. That would continue on the west side but on the east side she would like an easement for a footpath similar to what was discussed between Ashton Woods and Crabapple Registry neighborhoods. She said this started because some residents of Crabapple Registry neighborhood were told that would never be anything and unfortunately that was not correct. Mr. Kundur agreed and noted that he was the last one to buy. Councilmember Diamond said they simply were not given the correct information. She said she was sorry that happened but they could not start on that premise because that was incorrect information; it was always intended to be a road even when it was Fulton County. She noted that it seems like this has come a long way from this being a total road to an emergency road to a path through the grass to a path that does not go through the grass, which is quite a "jump." Crabapple Registry may not like the maintenance the City could do as much as what they were currently doing. She said there was a similar park in her neighborhood that the City would maintain but they choose to maintain it themselves because they wanted it to look a certain way and the City had limited funds and resources for maintenance. She said she wanted the path on the east side to be considered; there is a sewer easement on that side; at some point, the church might want the option to tie into something.

Councilmember Price said having met with the interested parties on numerous occasions they had seen these plans morph from one thing to another and it was hard to know what they were really dealing with at the moment. It seemed in the beginning they had a kind of a "yin and yang" with the shared detention being one goal and the connectivity being another and got to the point that it seemed to be either one or the other. She said she was still not sure and maybe Mr. Moring could elaborate on how important or valuable a shared detention facility is. Mayor Wood noted he would like to get through the public comments first and then have staff questions. He asked her to hold her question until after public comment and any rebuttal by Ashton Woods. Councilmember Price agreed. Councilmember Price said there were many things she agreed on with Mr. Kundur and most of the people in Crabapple Registry as far as the use of the green space path, etc. and would elaborate on that at a future point.

Krishna Ravoori, 12174 Limeridge Court, Alpharetta said Crabapple Registry didn't want connectivity at all, but in the future if they were connecting all the subdivisions they could have it; right now they preferred leaving it at just a connecting gate. They totally agreed with Councilmember Diamond. In the future if there was a broad plan connecting all of the subdivisions, they would have a space to do that, which was a right-of-way for the City anyway. He requested that the \$50,000 be used for a left turn lane, at least in the City of Roswell ending somewhere from the Houze Road intersection to the east where the city limit ends at Spring Lane. He said there is already a left turn lane from the Houze Road intersection to the Crabapple Enclave. He asked if they might have a left turn lane within the next one to two years at least to the Roswell city limits because there would be 100 or more cars once the Ashton Woods property was built because there was only a short distance of left lane.

Mayor Wood responded the Council was not in a position to say when the project would be done. It was dependent upon whether the Transportation Investment Act is approved which would provide for funding and was conditioned upon other projects within the City and the priorities of those projects. He said when the City looks at projects; they have to look city wide at what the most pressing projects are and

consider those as a group. He said the Rucker Road project was a high priority on the list prior to the Transportation Investment Act when the staffs of the cities of Roswell, Alpharetta, Johns Creek, Sandy Springs and Mountain Park all came together with a project list. However, done correctly, the project would cost \$20 million and was beyond the scope of just the City of Roswell and is a matter of trying to coordinate all the cities. This is a regional road not just a city road.

Mr. Ravoori asked Mayor Wood if he was saying that they could not have just a left only lane for the Roswell City limits. Mayor Wood replied he was not saying they could or could not, but it would be a question of what road improvement should be done and something that he would defer to Transportation staff recommendations. The next question would be if there is availability of funding for their recommendations, and now, the first opportunity for funding would be the Transportation Investment Act. Mr. Ravoori said he had seen \$20 million and the gathering of three different cities, Milton, Alpharetta and Roswell, but couldn't they at least have a lane that would be \$100-\$150,000 out to the Roswell City limits. He said if the City was already getting \$50,000 from Ashton Woods, for another \$100,000, the City could have that short distance left lane that would help with 100 or more cars on the road from Rucker Road to the end of the city limits. Mayor Wood encouraged the neighborhood to come to the meeting the next time transportation projects are considered to continue that request. He said the Council considers which items are priorities, consider public support, recommendations of staff and availability of funding. He said he appreciated Mr. Ravoori being an advocate for that improvement.

Mayor Wood asked for further public comment; there was none. He asked for rebuttal from the applicant. There was none.

Mayor Wood noted that a good point was made by the neighborhood, which was what is the City doing to connect to the church. He said the City Attorney pointed out there is a drainage easement and landscape strip and asked if they would consider granting an easement across either of those. He asked them to look at the plat and said they were not requiring they make the improvement now because they would also have to work with the church but there were two possibilities for connections. Mayor Wood asked for input from the people who came up with the concept. He said Mr. Townsend pointed out the drainage easement between the two lots as one possibility and the better possibility might be in the landscape strip.

Council Comment:

Councilmember Dippolito said that from looking at an aerial there was probably a better location somewhere between where the church buildings are currently located, and something that should be left to their discretion to find the appropriate location.

Mayor Wood said he was asking for input from them if they have an idea now or discretion later but it would be easier to resolve it now if they could.

Councilmember Diamond said she agreed with Councilmember Dippolito that Ashton Woods probably had a better knowledge of the slope of the area, which is quite a steep slope on the property line going down to the church.

Applicant:

Mike Busher said he would prefer that it be on the southern landscape strip close to the entrance of the subdivision for a couple of reasons, but most notably the tree protection that runs along the eastern border of the property obviously was meant to reduce the amount of impact to the trees; any amount of pathway put in would likely damage critical root zones. To the effect, that they were already going to be

developing this area it makes more sense to us now and it is also in close proximity to existing sidewalks. He said we are down to the finer points and are happy to do that but that was the issue as he saw it now. There are some trees along all of the area that should be left alone to the extent that was possible.

Councilmember Diamond asked how the front entrance would look and if there would be a wall. Mr. Busher replied the detaining area is not the typical concrete structure that would be seen on the northern border and is an enhanced swale. He said they would tie in a monument that would be keeping in character with the area and that would be the only modular structure there. Councilmember Diamond asked about the view from the street, would the wall be seen or the swale and the path.

Sotir Christopher said it was designed with enough room for a very gradual slope not like a typical detention pond with a 2:1 and very steep slope going down; it was designed to be completely sodded and blend in versus being a detention pond on Rucker Road. There would be a gradual slope up four feet above the road and that slope could be backfilled up against the monument if need be or the monument could be designed into it. He said he didn't think the monument had been designed at this point but it would be consistent with what is seen on Rucker Road. He said if a decision regarding the connectivity to the church were made right now, they would need to take many things into consideration; topography; it is not something they had previously looked at because it had not come up.

Councilmember Diamond asked if staff could condition it.

Mayor Wood said there could possibly be floating easements, which are not defined in location and could be situated at a later time and he believed they were trying to make sure the easement was not across a developable lot. Mayor Wood said perhaps there should be a condition that they would grant an easement to be determined later, across property, which was other than a developable lot, between that and the church property. Mr. Christopher replied that would be fine if they could find a feasible location. Mayor Wood said it would be up to the City to select a feasible location and would have to work with the church. He said Ashton Woods could grant an easement in which the exact location is not determined but would not be on a developable lot. Mr. Christopher replied that was correct. Mayor Wood asked Mr. Hendricks if that made sense. (Response was inaudible).

Councilmember Dippolito said another way to get further away from Rucker Road would be around lots 15 or 16 where there are larger lots and toward the back, perhaps they could shift them a bit and make room for the path; it would be fairly consistent with where the other proposed multi-use trail is going in.

Councilmember Orlans asked if there would be some sort of décor or a brick wall that would block the view of the front of the detention pond on Rucker Road. He said there are several precedents around the City where a detention pond had been by the road and aesthetics had been added. He asked the applicant to clarify their intent.

Mike Busher replied the structure in front would not have concrete it is an earthen berm and would have surrounding landscaping. The street view would be consistent in the character of what is seen there already. The only modular structure that might serve as a retaining wall given the grade change would be the subdivision monument. It would be made characteristic but not a concrete pond that would be in stark contrast to everything along the road. He asked Councilmember Orlans if that answered his question. Councilmember Orlans asked if there would be a fully landscaped berm coming off Rucker Road.

Sotir Christopher replied it would be landscaped like most subdivision entries similar to Crabapple Registry's with a depression but not like a typical detention pond that is ten feet deep with 2:1 slopes. It could potentially be all sodded because it would have 4:1 slopes maximum as currently designed that could be sodded and maintained and landscaped so that it feels more like part of the entry feature in landscaping versus putting up a six foot high privacy fence with evergreens that would make it look like a pond. It would be made to blend in to look like an entry feature. He asked Councilmember Orlans if that answered his question.

Councilmember Orlans asked Brad Townsend if that would be something that the DRB and staff would look at. He gave examples of other subdivisions where detention ponds are up front on the road, one on Old Alabama Road where the connector comes and Brooks Green on Woodstock Road.

Mike Busher responded they had purchased Brandl Estates, a foreclosed neighborhood nearby and it was done that way and this would be very different. The biggest difference to emphasize was there would be no concrete in the pond; it is a topographical measure with an inlet carrying water and being drained and it could be sodded.

Mayor Wood asked if there was a landscaping requirement between the road and the pond. Brad Townsend responded 20 feet as shown on the plat. Mayor Wood asked if a landscape strip was just grass or did it include something else. Mr. Townsend responded there was not a landscaping plan with the application. Mayor Wood asked if they were proposing to put anything between the street and the pond other than grass. Mr. Busher replied yes. Mayor Wood said perhaps they could create a condition that would satisfy Councilmember Orlans's question. Mayor Wood said the plan does show trees or some type of landscaping. Mike Busher replied there were plants characteristic of the area and added that typically when they submit their construction drawings they must also submit their landscape plan and that was what was approved. Mr. Busher said he would be happy to do whatever works best.

Mayor Wood said the condition should read, "Landscaping between the detention pond and the road consistent with these plans to be approved by staff." It does not have to be identical because this was just typical. Mr. Townsend replied okay. Mayor Wood asked Councilmember Orlans if that addressed his concern. Councilmember Orlans replied it would as long as staff has reviewed it. Mayor Wood asked the applicant if they were in agreement with adding that condition. Mr. Busher replied that would be fine.

Councilmember Dippolito asked if that was something typically reviewed by the Design Review Board. Mayor Wood replied no sir; this is a single-family subdivision. Mayor Wood asked Director of Community Development Alice Wakefield if the Design Review Board does entryways for subdivisions. Brad Townsend replied only entry features such as landscape walls, monuments, and signs go to the Design Review Board. Mayor Wood said he did not think this would be a feature; normally this would not go to the Design Review Board and he wanted to keep this simple. Councilmember Dippolito said then the landscape plan would not go to the Design Review Board. Councilmember Wynn replied "just the walls."

Mike Busher said their submittal included a landscape plan separate from the site plan that was before Council. He said the plan detailed the recompense that was required from the City as well as planned landscaping. He said it was part of the larger plan submitted to staff. Mayor Wood asked if we could just say it was consistent with this. Mr. Busher replied yes, that was fine.

Mayor Wood asked if the applicant had any further questions or comments. The applicant had none.

Mayor Wood asked if they had resolved the easement or trail connection to the church property.

Councilmember Dippolito noted that he had a question for staff and asked if that was appropriate. Mayor Wood replied he would like the applicant to complete their presentation first and answer any other questions and then they would address questions for staff.

Councilmember Price said she knew Council had been working with two different renderings and one was the August 1, 2011 and another was the November 1, 2011. She asked the applicant which was their preference.

Pete Hendricks replied if they go with August 1, 2011 and there was a condition associated about shared detention with Crabapple Registry and he would serve that up to the City Attorney to speak to the ability for Council and Mayor to be able to direct Crabapple Registry to do shared detention. He thought that evaluation comes with the August 1, 2011 plan. Councilmember Price asked if they had worked towards an agreement and what was the stumbling block. Mr. Hendricks replied the access as described by Anthony Russell; because where they come down would be a gate only between the properties and that the area would remain grass. Mr. Hendricks said "With that are together on shared detention; without that, then from their okay standpoint the shared detention falls out." Councilmember Price asked if Crabapple Registry might be amenable to something such as an opening and no impervious path, an opening such as in like an arbor. Mayor Wood said without a gate. Councilmember Price replied no gate.

Mike Busher replied that he would be in favor with whatever plan Council wanted to approve. Councilmember Price asked what would be his preference. Mr. Busher said, again the path was critical and the Mayor's expression was "it's important to me" and he said he didn't know how to answer the question and he didn't know if they could do either. He said to Pete Hendricks' point, it would present a problem if the August plan were approved with the pedestrian access as shown, because on that plan there is shared detention that we now couldn't get; Crabapple Registry would say they would not honor that previous agreement, and that is troubling. Mr. Busher stated having an opening or path that ends at the fence on the western side of the property line and there being no path would get closer to what Crabapple Registry would find to be an acceptable compromise. He said it is clear they don't want the connectivity through what has become used as green space.

Council Comment:

Councilmember Price said she had a question for Director of Environmental/Public Works Director Stu Moring. She said in some of their meetings they have had a lot of transportation personnel in attendance but the Public Works people had not weighed in on the desirability or feasibility of the shared detention. She said she wasn't sure if the most recent drawing that they had just seen is workable or if completely vetted by Public Works as to the two detentions. She asked which would be preferable to them.

Stu Moring replied a single detention pond would be preferable. He said he thought that was what he had stated previously; he noted that he had not reviewed the specific plans that have evolved and couldn't comment on that. He said it was one of several good things; other things being equal he would rather have one pond than

two and thought the applicant had said that as well. He said if it is not feasible and the proposed property installed a detention facility in accordance with the blue book, then they would be fully in compliance and the City would have no authority to deny them on that basis. Councilmember Price asked if the November 1, 2011 plan was feasible and adequate. Mr. Moring replied yes.

Councilmember Wynn said she thought Mr. Harmon brought up some good points on the left turn lane. She asked Transportation Director Steve Acenbrak if there is a way staff could look at a short-term solution to help alleviate some of the Crabapple Registry concerns. Mr. Acenbrak replied that many times if there is enough asphalt there, they could do what they had just done for Councilmember Dippolito, which was to look at Grimes Bridge and the fact that there were two yellow lines, and people were confused about turning into back streets. He said they ground that up, restriped it and turned it into a two-way left turn lane. He said they sometimes have the ability to reapportion certain parts of the asphalt; for example if a 12' left turn lane is needed but they were able to make it into a 10.5' left turn lane that would not be ideal. He said they had not looked at that in any detail but they could look into it.

Councilmember Wynn said she would appreciate that and she understood they couldn't spend a lot of money because that would be part of the regional projects. She said the Transportation department staff was so innovative and creative that they might be able to come up with something that would help alleviate those concerns. Mr. Acenbrak said there were taper lengths, sight distances, and other things that needed to be looked at but they would look at it.

Councilmember Igleheart said he and Mr. Acenbrak had talked twice about the same thing Councilmember Wynn just brought up about turning into Crabapple Registry and the new subdivision and whether or not that could be done. He said Mr. Acenbrak had gone out and looked at it and they had discussed ideas of how they could make it happen. Mr. Acenbrak responded the issue was the curb and gutter on both sides and he didn't think it was feasible but he had offered to look at it. He said he hadn't thought before about the idea of squeezing the lanes together and trying to put something in without taking out the curb and gutter or moving the utilities. He said the problem with Crabapple Registry is they are already there, and the front entrance is established with a narrow corridor. He said near the Ashton Woods property, the curb and gutter ends and there could be an opportunity to widen that a bit. Councilmember Igleheart said his point was that they had already looked at a lot of this. He said it bothered him because they had started to look at it and determined it would cost about \$150,000 and then they just let it go. Mr. Acenbrak said that cost would be for doing the entire project correctly including designing the required taper lengths on both sides, adjusting the centerline, figuring out curb locations and overlaying that over what is there now. He said if the curb and gutter need to be moved out 6-8' in order to add the turn lane that almost always triggers a utility relocation; there might also be water lines or other utilities underground that needed to be moved; not everything on the surface is at it appears. He said he is not optimistic but had been asked to look at it and would do whatever possible to get it in as quickly as possible. He said they might use the \$50,000 to make some modest curb line realignments and other things. Councilmember Igleheart said he was baffled because he had asked that question to Mr. Acenbrak at least twice in two separate meetings. Mr. Acenbrak said he apologized if he hadn't given him a clear answer. Councilmember Igleheart said he agreed with Mr. Harmon that they were setting things up that is already a problem for them to get in and out of their neighborhood and why would they think it would be better for the next one until however long it takes to fix this road. He said even if the Transportation Investment Act passed in July it would be a long time before it is built and a lot of money has already been spent on that intersection and yet we are going to let one car block everything out of that intersection and we don't seem to care whether it's safe or not.

He said it was a safety issue but also a traffic flow issue.

Councilmember Dippolito said he spoke with Mr. Russell from Crabapple Registry and told him his preference on the path was essentially, what he recommended at the last Council meeting; to move the path to the north in order to preserve their green space and find a way to share detention with Ashton Woods. Crabapple Registry does not want a pervious path but if it is off the green space it would enable them to have shared detention and help them defer maintenance for their subdivision for the long term. It would get the path to the north and reduce the ongoing maintenance cost to the subdivision and help Ashton Woods get shared detention, which was good for the City as well. There seemed to be a lot of good reasons to do that, other than the fact that it would be a pervious path. Mayor Wood said he agreed with Councilmember Dippolito but Ashton Woods does not. Councilmember Dippolito said he didn't believe they had an issue with that. Mayor Wood said he meant Crabapple Registry had to concur because we could not do it without their concurrence.

Councilmember Igleheart said he had said the exact thing twice about the connection and the pond. We need to find a way to make the path north of the trees because with shared detention, there would be more space between all the properties and the entire thing could be moved up with the path totally out of the green space. Councilmember Price said they had rejected it in the past. Councilmember Igleheart asked if it would be true that if that path were totally north of where the grass is.

Mayor Wood said they would give Crabapple Registry one more opportunity to respond to Councilmembers Igleheart and Dippolito's suggestion to locate the path north of the hydrant. Councilmember Igleheart said not the hydrant but all the trees entirely; where the fence was now for the current detention pond. Mayor Wood asked Councilmember Igleheart to indicate the area he was suggesting on the plan to Mr. Townsend. Councilmember Igleheart said there is a line of trees north of the green space. Mr. Townsend described a line on the plan as the lawn limits. Councilmember Igleheart said somewhere around there was a line of trees and north behind that is a fence that protects the detention pond. He said the path could be put in that area (he indicated an area on the plan). Mr. Townsend pointed out the fence, the landscaped area, and the lawn on the plan. Councilmember Igleheart said if a joint detention was done, in theory that could be moved over a bit allowing the fence to be moved up 10-20 feet and would provide a path. Mr. Townsend said the trouble would be the line would be blurred between the public right-of-way and the common detention area for Crabapple Registry and without their written consent to do that there would be no deal. Councilmember Igleheart said he was asking if they would be willing to do that; he was trying to agree with Councilmember Dippolito to figure out something that worked for everyone. Mayor Wood asked if the position of Crabapple Registry had changed after hearing this discussion. Mayor Wood clarified that he was seeing a negative.

Councilmember Orlans referring to Mr. Harmon's point about the left turn lane, said if we went back to the original site plan with both subdivisions entering at the same place at Crabapple Registry, we could concentrate on one left turn lane to cover two subdivisions, which could be another avenue to help solve the safety problem.

Councilmember Price said Council has worked long and hard and it seems like it has been a moving target the whole time. The shared detention seems to be a relatively common goal. The connectivity issue is a feel good to some people but really impractical and foolish, frankly. She said the green space that most of us have visited is not a huge space but a wonderful space which would be marred by any kind of path / street, and although it is technically owned by the City, it has been maintained by the Crabapple Registry Homeowner's Association by the adjacent

neighbors mostly for some time now, and was not sure what reason we would want to suddenly pick up that maintenance, which also seems foolish. The path location explored when visiting, having it on the other side of the trees, was rejected. There is no curb cut and no discussion that we would make a curb cut. Councilmember Price said she noticed in the newest staff recommendations, #7 is omitted which is not requiring a right-of-way from the owner developer so what happens is now we would have right-of-way in Crabapple Registry and we would not have a right-of-way in Ashton Woods; we have also explored relinquishing the right-of-way on the Crabapple Registry side that was met with disapproval in the legal sense that we would have to sell it at fair market value. She thought that it still is feasible because the adjacent owners, Ashton Woods, are motivated and Crabapple Registry owns that in common, but she was not sure those are irreconcilable but the biggest sticking point is whether or not Crabapple Registry is willing to have an opening in the gate if perhaps there was no actual path that would allow some connectivity in terms of kids or bikes going back and forth but there would be no application of any foreign substance on the grass.

Mayor Wood asked Mr. Russell to come forward to respond on the records.

Anthony Russell, Crabapple Registry HOA President, stated Crabapple Registry absolutely is not married to the idea that there be a gate; they are mostly concerned that there not be a trail. If it would please Council to have some type of opening in the fence that was easily discernible that it is a passageway to be used by the public that would be fine. He said they would willing to maintain the green space; the trail would be "marring." He said the neighbors wholeheartedly support some type of connectivity as long as we don't put down some type of surface. Mr. Russell said, "If there were an opening in the fence with a designated right-of-way for the City between the two pieces of land, our HOA would have to go through the process to amend the covenants. I've gotten support from our homeowners that they would support that. If for some reason we do not, then the City has every right to put down the trail if we do not reach that conclusion for shared detention. So that is what we would ask, is that you allow the connectivity without the trail and we will support the shared detention."

Councilmember Price asked if he had the authority to enter into an agreement with Ashton Woods for the shared detention at this time.

Mr. Russell said as HOA President, he thought he would have the authority to agree to that but their attorney was not present. He said he had the latest draft of the agreement from the attorney today and that was the intention; he would need to get the advice of the attorney as to whether he could and when he could sign. The agreement could take effect without 67% approval of the homeowners. Mr. Russell said he had asked all of the homeowners to give him an indication of how they would approve and he had not received any negative responses that they would not approve to support the shared detention, as long as there is no trail.

Pete Hendricks requested a backup comment in the conditions that within a certain period of time if an agreement has not been reached then we default to the November 1, 2011 plan, which shows the connectivity and the detention singularly on the Ashton Woods pro

A motion was made by Council Member Price, seconded by Council Member Orland, that this Item be Approved with the following Conditions.

- 1. The owner/developer shall develop the property in accordance with the site plan Z.2 dated August 1, 2011, stamped "Received August 5, 2011 City of Roswell Community Development Department."**
- 2. The variance to the lot width reduction from 80' to 60' has been granted.**

3. Prior to the issuance of a building permit, the owner/developer shall give to the City of Roswell the sum of \$50,000.00 paid in cash, for the purpose of future road improvements to Rucker Road. Road improvements may include the creation of a left turn lane and a right turn lane on Rucker Road into the proposed development. The owner/developer will not be responsible for the construction of any road improvements. The owner/developer shall dedicate right-of-way to accommodate future road improvements by the City of Roswell, as depicted on site plan Z.2.
4. There shall be a shared detention pond between the proposed subdivision and Crabapple Registry. Should an agreement not be reached with Crabapple Registry Subdivision within forty-five (45) days then the applicant shall revert back to the November 1, 2011 plan which indicates the pedestrian trail.
5. There shall be a twenty (20) foot landscape strip along Rucker Road with landscaping improvements consistent with the plan.
6. The plat shall indicate a no access easement for the two lots along Rucker Road.
7. A 10' wide arbor or other opening in the fence shall be constructed by the owner/developer of the proposed subdivision.

Council member Dippolito proposed an amendment to the motion to provide for an easement with a 10' wide natural trail on the Ashton Woods side to get to the cul-de-sac and then to the opening in Crabapple Registry. Council member Diamond seconded the amended motion.

Both the main motion and the amended motion passed unanimously.

In Favor: 6

6.

RZ11-10 Text Amendment to Section 10 of the Zoning Ordinance to include regulations for donation bins in the City of Roswell. (Second Reading)

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning & Zoning Director Bradford D. Townsend said this is a text amendment to Section 10.16.1 of the zoning ordinance to include donation bins. This would provide a definition of donation bins, driveways; it includes a permit requirement which clarifies that the donation bins be placed on private property and would require an annual permit; application requirements; renewal requirements; location and placement criteria. Mr. Townsend stated that the one change made at first reading was in section (G) under Location and placement, regarding how many donation bins to allow on a parcel or location. Mr. Townsend said staff has included language that would allow a total of three donation bins. Staff research indicated that most donations bins were for either books or clothing; this would allow for a third type of use or donation at that particular location. This proposed text amendment will require that the company placing the donation bin is certified with the state and that the bins are properly located so they are not visible from the street, with proper screening, and located a certain distance away from crosswalks and fire hydrants. Staff recommends approval of the proposed ordinance at this second reading.

City Attorney David Davidson conducted the second reading of AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF ROSWELL, GEORGIA, REGARDING DONATION BINS, stating: to accomplish the foregoing, the Mayor and Council of the City of Roswell, pursuant to their authority, do hereby adopt the following Ordinance:

1.

The Zoning Ordinance of the City of Roswell Chapter 10, Specific Use Requirements, is hereby amended to add section 10.16.1, Donation Bins, to read as follows:

Donation Bin is any enclosed receptacle or container made of metal, steel, or similar durable product which is designed or intended for the donation and temporary storage of clothing or other material. The donation bin shall not exceed the maximum size of 12 feet in length by 6 feet in width by 6 feet in height.

Driveway is that surface, whether or not improved, over and by which ingress and egress are made into private or public property by vehicles.

Permit required

It shall be unlawful for any person to place, use or employ a donation bin on private property within the City of Roswell without first obtaining an annual permit.

Application for permit; renewal

A. Any person or entity desiring a permit under this chapter shall file with the City an original and one copy of an application, under oath, in writing, on a form furnished by the City.

B. The application shall include:

- (1) The location where the bin would be situated; as precisely as possible;*
- (2) The color (ie, picture) of proposed bin;*
- (3) The manner in which the person or entity anticipates any clothing or other donations collected via the bin will be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;*
- (4) The name, address, and telephone number of the bona fide office of any individual or entity who or which may share or profit from any clothing or other donations collected via the bin;*
- (5) Written consent of the property owner to place the bin on the owner's property;*
- (6) Whether the applicant is an individual, a partnership, a corporation, limited-liability company or other entity and, if another entity, a full explanation and description thereof;*
- (7) If the applicant is an individual, the applicant's full name and residence address;*
- (8) Proof of insurance;*
- (9) Copy of registration with the Secretary of State.*

Location and placement

A. No donation bin shall be placed, used or employed in such a manner in which it projects onto or over any part of any public roadway of any public street or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.

B. No donation bin shall be placed, used or employed in such a manner in which it rests in whole or in part upon any portion of a public right-of-way or which projects onto or over any part of a public right-of-way.

C. No donation bin shall be placed, used or employed in such a manner in which it:

- (1) Endangers the safety of persons or property or otherwise may constitute a safety hazard, including, but not limited to, the placement of any clothing/material bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases;*

(2) Unreasonably interferes with or impedes the flow of pedestrians or vehicular traffic, including any legally parked or stopped vehicle, vehicular traffic flow or maneuvering;

(3) Unreasonably interferes with the ingress or egress from any residence or place of business;

(4) Unreasonably interferes with passengers boarding or exiting from buses at designated bus stops;

(5) Unreasonably interferes with the use of traffic signals, traffic or street signs, fire hydrants or mailboxes permitted at or near said location.

D. No donation bin shall be placed, used or employed in such a manner in which it is located:

(1) Within 25 feet of any crosswalk.

(2) Within 25 feet of a fire hydrant.

(3) Within 25 feet of any fire lane, fire call box, police call box or other emergency facility.

(4) Within 25 feet of any driveway.

(5) Within a required buffer area.

E. No donation bin shall be placed, used or employed on a single-family residential property.

F. The placement and screening of a donation bin shall be in a manner to effectively shield the bin from being viewed from the public right-of-way as determined by staff on a case-by-case basis.

G. Any person or entity shall be allowed to place no more than one (1) donation bin per parcel or location with a total of three (3) total donation bins allowed per parcel or location.

Display information

The following information must be clearly and conspicuously displayed on the exterior of the donation bin:

A. The name, website and address of the registered person who owns the bin, and any other entity which may share in the profit from any clothing or other donations collected via the bin;

B. The telephone number of the person's or entities bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin.

Mr. Davidson noted that if approved, this would be the second reading.

Public Comment:

Edward Zito, 2914 Lenox Road, #13, Atlanta stated he was a board member with American Kidney Services; he wanted to answer any last minute questions that might come up. Mayor Wood asked if he had any questions or comments about the ordinance. Mr. Zito said he did not and repeated that he wanted to make himself available for questions.

Councilmember Igleheart noted that Mr. Zito, at a previous meeting had expressed concerns and asked if he still had those concerns regarding what was being proposed. Mr. Zito replied he wanted to be sure anyone trying to place a donation bin was a true charity registered with the Secretary of State. Questions regarding screening had been addressed, and although they are not talking about putting a

fence around it perhaps, it would be in the middle or back of the shopping center. The bins should include the name, address and contact number and he thought all those things had been covered. Councilmember Igleheart thanked Mr. Zito.

Council Comment:

Councilmember Price said she had a concern on item (F) that read, "As determined by staff on a case by case basis" because presumably, someone could be denied and we might not ever know. She asked if that was correct.

Mr. Townsend replied usually when staff denies something, Council is informed, but that would be the case. Mayor Wood clarified that if someone is denied by staff, they would have an option to call a councilmember or another elected official to discuss it. Mr. Townsend confirmed that staff, in any case, would work with the group to try to remedy the reason for denial.

A motion was made by Councilmember Price to approve RZ11-10 Text Amendment to Section 10 of the Zoning Ordinance to include regulations for donation bins in the City of Roswell on Second Reading, seconded by Councilmember Orlans. The motion carried by the following vote:

In Favor: 6

7.

Approval of a Resolution to establish a fee related to processing an application for a donation bin.

Presented by Bradford D. Townsend, Planning & Zoning Director.

Planning & Zoning Director Bradford D. Townsend said as part of the application, staff would request a nominal \$25.00 fee included with the application. This fee must be adopted by resolution.

Council comment:

Councilmember Price asked if that would be an annual fee. Mr. Townsend replied yes; it would be treated similar to signage. No further questions or comments were made.

Public comment:

Janet Russell, 260 Willow Springs Drive, Roswell asked if it is correct that there would be no exemptions for anyone or any group including churches regarding the \$25.00 annual fee. She said churches were currently exempt from signage fees. She asked that this be made an amendment. Mayor Wood asked Mr. Davidson if as currently proposed, would staff or elected officials have an option to waive the fee. Mr. Davidson replied as written, they would not. No further public comments.

A motion was made by Councilmember Price for Approval of a Resolution to establish a fee related to processing an application for a donation bin. Seconded by Councilmember Wynn. The motion carried by the following vote:

In Favor: 6

8. **RZ11-11 Text Amendment to amend the sign ordinance regarding the "Find it all Roswell" campaign and the use of temporary signs. (First Reading)**

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning & Zoning Director Bradford D. Townsend said this was to allow for the "Find it all Roswell" banners to be included in the 2012 calendar year that extends it from 2011. He said staff recommends approval at First Reading.

City Attorney David Davidson conducted the first reading of an ORDINANCE TO AMEND THE CITY OF ROSWELL SIGN ORDINANCE REGARDING "FIND IT ALL IN ROSWELL" CAMPAIGN AND THE USE OF TEMPORARY SIGNS WITHIN THE CITY OF ROSWELL, stating: to accomplish the foregoing, the Mayor and Council of the City of Roswell, pursuant to their authority, do hereby adopt the following Ordinance:

1.

Article 22, of the City of Roswell Zoning Ordinance, Signs, Section 22.12 Temporary Signs, is amended by changing the year from 2011 to 2012 in the following subsection 22.12 (a) (3):

Section 22.12 Temporary Signs

(3) For the period from September 15, 2009 through December 31, 2011 2012, a business may receive an economic development permit for use of a temporary sign for an additional forty (40) days of advertising per year, cumulative to the 40 days granted in subsection (a) above and subject to the same requirements and limitations set out in (a) above. This subsection (3) shall be automatically repealed on December 31, 2011 2012.

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

A motion was made by Councilmember Price to approve RZ11-11 Text Amendment to amend the sign ordinance regarding the "Find it all Roswell" campaign and the use of temporary signs on First Reading and placed on the Mayor and City Council agenda for 12/12/2011. Seconded by Councilmember Dippolito. The motion carried by the following vote:

In Favor: 6

9. **Initiation of a proposed text amendment to the Sign Ordinance related to the distribution of allowable ground and wall sign square footage.**

Presented by Bradford D. Townsend, Planning & Zoning Director

Planning & Zoning Director Bradford D. Townsend noted the late hour of this meeting and asked if Council wished to begin discussion of this item at this time. Mayor Wood replied this was only an initiation and not final approval and there was an option for the Planning Commission to comment and further amendments by Council.

There was no public comment or Council discussion.

A motion was made by Councilmember Price to approve the Initiation of a proposed text amendment to the Sign Ordinance related to the distribution of allowable ground and wall sign square footage. Seconded by Councilmember Orlands. The motion carried by the following vote:

In Favor: 6

Environmental / Public Works Department - Councilmember Becky Wynn

10. **Approval of Budget Amendment #440C-10-24-11 in the amount of \$550,000 for conceptual planning for the planned system improvements for the Roswell Water Utility Treatment Plant.**

Presented by Stuart Moring, Director of Public Works/Environmental

Director of Public Works/Environmental Stu Moring stated this item is part of the City's ongoing program for water system improvements. Mr. Moring noted that the draft permit for expansion of the water plant has been issued. He noted that staff has completed the "comment period" and as of early last week there have been no comments received. Mr. Moring stated he expects that within the next month, approval will be received for expansion of the water plant. Mr. Moring stated that as a part of that, a preliminary engineering report is necessary to satisfy GEFA requirements. The expectation is that GEFA loans will be the most cost effective means however, there is bonding availability. Mr. Moring stated that currently, Public Works/Environmental is undertaking the well building design with the assistance with the Corps of Engineers. That would be a third alternative for funding. Mr. Moring stated the plan right now "Is simply to request a budget amendment in the amount of \$550,000 to take care of the cost of the preliminary engineering report and environmental planning document. We have conservatively estimated the cost of those at \$550,000. That money is available in the Water Fund."

Council comment:

Mayor Wood noted that \$550,000 is for planning and asked what the next phase would cost. Mr. Moring replied the next phase would be to take the concept plan, hold public hearings, request approval of Council to move forward with an appropriate plan, and then arrange for funding and go into the actual design engineering phase by phase. Mayor Wood asked if there is an estimate of the build-out cost. Mr. Moring replied, "Yes, the total package was presented in September at our Water Resources Division, but it is on the order of \$15 million dollars. That would include

storage, the intake and channel improvements on Big Creek, the new plant itself, interconnection, and additional storage.” Mayor Wood asked if it was anticipated that this entire project can be funded by the Water Fund without going to the General Fund, or looking to taxpayers for support. Mr. Moring replied “Yes, absolutely. This will be entirely funded by the Water Fund, and in fact, all of the improvements that we are considering in Phase 1 are done with the intention of reducing our net operating cost. As you well know, and I think most Council members are aware, we have six operators, at our water plant so that we can operate twenty-four hours a day. We are limited by the availability of flow on Big Creek. We will increase from 1.2 to 2.8 million gallons per day. Our operating cost will only go up slightly for additional chemicals and power. Manpower cost will not change.” Mr. Moring noted that charts were previously presented, but could be shown again. Mr. Moring said “Basically, we will reduce our operating costs in about half.”

No further comments or questions.

Motion: Councilmember Wynn moved for Approval of Budget Amendment #440C-10-24-11 in the amount of \$550,000 for conceptual planning for the planned system improvements for the Roswell Water Utility Treatment Plant. Councilmember Dippolito seconded.

Public comment:

Lee Fleck, Martins Landing, expressed congratulations to Councilmember Price, Councilmember Wynn, and Councilmember Dippolito on their recent successful candidacy.

Mr. Fleck referring to a diagram stated he had noticed a well being drilled at Willeo Road and Highway 120. Planning and Zoning Director Brad Townsend stated the area Mr. Fleck referred to was most likely for core samples for the church to be constructed at that location. Mr. Fleck thanked Mr. Townsend for the clarification.

Mr. Fleck noted that he had questioned the water and sewer expenditures during the first reading of the budget on June 1. Mr. Fleck read minutes of that meeting stating: “He discussed, (that was me), water and sewer expenditures and said the amount of money paid to Fulton County to purchase water to sustain the water plant had gone from \$600,000 and spiked to one million dollars.” Mr. Fleck said Mr. Moring had stated the budgeted amount was \$700,000, and was the amount estimated. Mr. Fleck said that is what it had been every year prior to that. Mr. Fleck said the Mayor had asked why there was an increase from year to year. Mr. Fleck stated that Mr. Moring could not provide an answer. Mr. Fleck said that City Administrator Kay Love stated that part of the increase was that the number showing at that time was a more accurate dollar amount budgeted for that utility. Mr. Fleck stated that when the final budget was presented, that the number changed to \$550,000. He noted that he will always question numbers proposed on the water treatment plant. Mr. Fleck said, “I presume that the \$551,000 comes from your comprehensive annual financial report of last year. I think it was clarified that is actually coming out of the Water Enterprise Fund, which currently has a cash balance of \$2.5 million, so you are going to use about half a million for that. Is that correct? You are not getting it out of General Funds, correct?” Mr. Moring stated that was correct. Mr. Fleck asked for clarification on the conceptual planning for the planned system improvement. He said the Army Corps of Engineering did the well studies; the well studies were in the original draft. Mr. Fleck stated, “The bottom line is, as stated Section 16.7, that the proposed project would withdraw an estimated 170,000 gallons per day. And, that for the optimized, long term productivity, it would be recommended to not pump water out of those for more than ten to fourteen days per month. So, your well is really a non-issue, as defined by the Army Corps of Engineers.” Mr. Fleck stated GEFA

would never offer money. Mr. Moring replied that the expectation was that GEFA would. Mr. Fleck responded that Mr. Moring knew better. Mayor Wood reminded Mr. Fleck to ask all his questions and that staff would then be given an opportunity to respond. Mr. Fleck replied, "We are going to go to a revenue bond, you know quite well." Mayor Wood replied, "Mr. Fleck, the absence of a response does not indicate an agreement. We are giving you an opportunity to address all these issues and then we will give staff an opportunity to respond. Silence is not the same as agreement." Mr. Fleck replied, "Ok, but I think we all know that we are looking at a revenue bond." Mr. Fleck said a reputable firm presented the water system master plan. He noted that capital projection numbers almost match; "It is surprising how closely all these numbers relate to the analysis by the engineering firm. I consider that relatively accurate." Mr. Fleck was concerned by the term "conceptual." Mr. Fleck read a statement which he said Mr. Moring had previously made: "We will embark on an economic assessment when we have solid information on technical feasibility of both the service and ground water improvements we have in mind. When we have the pieces together, we will undertake the overall economic assessment and study." Mr. Fleck said it seems that this is moving into a planning phase. He asked if the economic feasibility study is being skipped over altogether.

Mayor Wood asked Mr. Moring to respond to Mr. Fleck's last question first and then respond to Mr. Fleck's other comments. Mr. Moring stated, "First, with respect to GEFA funding, we currently have loans from GEFA. One for \$1.5 million and one for \$1.2 million. We have every expectation that additional funding will be available and because of our Water First status, we will receive a one percent reduction in the loan rate. That is why we believe that GEFA funding will be the most economical approach. We are not going to bank on anything until we actually have done that but we know that we can't do anything, whether it is GEFA funding or whether it is bond funding, without having the appropriate engineering documentation, and that is why we planned to do the preliminary engineering report that is a basic requirement for proceeding with that work." Mr. Moring provided a chart which he stated had been presented at the September Quarterly Water Resources Division presentation. The chart indicated a projection of operating costs with and without the recommended capital improvements. Mr. Moring said they are continually undertaking the economic analysis, refining the numbers as they are received, but as of this stage, the costs for the treatment plant, for the storage, and for the intake improvements are all conceptual. That is why it is necessary to conduct the engineering study in order to refine those cost estimates. Mr. Moring stated it is known that with the recommended changes, they will substantially reduce the costs of the operation. Mr. Moring displayed an additional chart prepared as part of the September presentation. The chart demonstrated the cost savings over the initial five-year period. Mr. Moring said the total is about \$3 million, of which the bulk is for reduction in water purchase costs; there is an additional \$592,000 that will result from having new equipment to reduce repair and refurbishment costs. With the new equipment, production costs will also decrease. Mr. Moring explained that through the cost savings over time that is the plan, to pay for the cost of the improvements made and will all be done, as previously discussed, with the Water Fund. Mayor Wood thanked Mr. Moring for the explanation. Mr. Fleck replied he was happy that Mr. Moring made the point with regard to the savings by not purchasing water from Fulton County. Mr. Fleck said, "I assume that you are committing that those savings will be rolling back into the Water Fund and not into the General Fund." Mr. Moring replied "Absolutely." Mr. Fleck replied, "That million dollars per year that you are spending for water will be used, or \$700,000, or \$550,000 if you change the numbers to that, will be going to the Water Fund exclusively, right?" Mr. Moring replied "Yes." Mr. Fleck stated it was interesting that those figures were shown, which he did not doubt. Mr. Fleck displayed projected figures, which he said had been displayed previously, from the engineering staff who did the sustainability costs analysis for the water plant; he said those figures are quite

different than what had just been shown. It included the necessary annual generated revenue to maintain the plant. Mr. Fleck said the annual revenue would have to increase by 2.5 to 3 percent per year. He asked if the unit costs are being driven down, and revenues need to be increased, who will make up the difference; there are no additional clients. The city is currently covering fifty percent of the water from Fulton County. He said to cover that revenue gap, there is no doubt that it will be necessary to increase the utility fees to the public. Mr. Fleck stated this should be publicly discussed. The analysis conducted was excellent and done by a reputable firm; they projected a \$17 million revenue bond to have a long-term sustainability cost of \$33 million dollars which will have to be paid for by a very limited portion of this population, many people will be impacted.

No further discussion.

A motion was made by Councilmember Wynn for Approval of Budget Amendment #440C-10-24-11 in the amount of \$550,000 for conceptual planning for the planned system improvements for the Roswell Water Utility Treatment Plant. Seconded by Councilmember Dippolito. The motion carried by the following vote:

In Favor: 6

City Attorney's Report

11.

Approval of an Ordinance to annex the Broadwell property by the 100% method. (Second Reading)

City Attorney David Davidson stated this property owner had filed a petition to annex approximately 2.13 acres into the City of Roswell. The property is currently located in unincorporated Fulton County.

Mr. Davidson conducted the second reading of an ORDINANCE TO ANNEX BROADWELL PROPERTY stating: The Mayor and Council do hereby adopt the following Ordinance.

1.

The City of Roswell does hereby annex the property described in Exhibit "A" attached hereto and incorporated herein and more particularly described below into the corporate limits of the City of Roswell: ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 46 of the 1st District, 2nd Section, of Cobb County, Georgia and being more particularly described as follows: TO FIND THE TRUE POINT OF BEGINNING, begin at point located at the intersection of the west line of Land Lot 35 with the centerline of Willeo Creek; thence southerly, southeasterly, easterly, southwesterly, and westerly along the Cobb County line and the along the meanderings of the centerline of Willeo Creek, which is also the east county line of Cobb County, twenty eight hundred twenty (2,820) feet, more or less, to a point, said point having a State Plane Coordinate, Georgia West Zone, NAD 1983 of Northing 1473403.9849 and Easting 2221922.6206, said point is the TRUE POINT OF BEGINNING. Thence leaving said current common county proceed South three degrees fifty-five minutes and forty seven seconds West (S03°55'47"W) a distance of one hundred fifty-two and ninety-three one hundreds (152.93) feet to a point, Thence proceed South seven degrees twenty-eight minutes twenty-nine seconds East (S07°28'29"E) a distance of one hundred twenty-nine and thirty-eight one hundreds (129.38) feet to a point; Thence proceed South five degrees nine minutes thirty-eight seconds East (S05°09'38"E) a distance of fifty and sixty-four one

hundreds (50.64) feet to a point (1/2 inch rebar found), said point having a State Plane Coordinate, Georgia West Zone, NAD 1983 of Northing 1473071.9316 and Easting 2221919.9539; Thence proceed South eighty-six degrees twenty-six minutes forty-two seconds East (S86°26'42"E) a distance of three hundred and 50 one hundreds (300.50) feet to a point (1/2 inch rebar found), said point having a State Plane Coordinate, Georgia West Zone, NAD 1983 of Northing 1473071.4836 and Easting 2222220.4536; Thence proceed North four degrees seven minutes zero seconds West (N04°07'00"W) a distance of three hundred two and fifty-eight one hundreds (302.58) feet to a point (1/2 inch rebar set), said point located on the northerly line of Cobb County and the southerly line of Fulton county, said point having a State Plane Coordinate, Georgia West Zone, NAD 1983 of Northing 1473374.0340 and Easting of 2222223.8636; Thence following said common county line proceed North eighty-seven degrees nine minutes three seconds West (N87°09'03"W) a distance of seventy-four and ninety-four one hundreds (74.94) feet to a point; Thence proceed North eighty-seven degrees nine minutes three seconds (N87°09'03"W) a distance of one hundred thirty-six and nine one hundreds (136.09) feet to a point; Thence proceed North seventy-five degrees five minutes eleven seconds (N75°05'11"W) a distance of thirteen and four one hundreds (13.04) feet to a point; Thence proceed North sixty-five degrees thirty-five minutes eleven seconds (N65°35'11"W) a distance of eighty-two and ninety-two one hundreds (82.92) feet to a point, said point being the TRUE POINT OF BEGINNING. Tract described herein containing 2.13 acres (92,639 square feet) of land, more or less, described on a survey by Frontline Surveying & Mapping, Inc., job number 43916, dated 12/09/2009, last revised 12/2/2009.

Mr. Davidson noted that if approved, this would be the second reading of the ordinance.

Mayor Wood asked if the City is designating how this property would be zoned when it is annexed. Mr. Davidson replied that the zoning would be moving forward at a later time. Mayor Wood clarified that the zoning of the property would be decided later. The Mayor said he believed that Mr. Broadwell's property is in a neighborhood which is zoned E-2 and he will be asking to be brought in as E-2. No further discussion.

A motion was made by Councilmember Orlans for Approval of an Ordinance to annex the Broadwell property by the 100% method on Second Reading. Seconded by Councilmember Wynn. The motion carried by the following vote:

In Favor: 6

12.

Recommendation for closure to discuss personnel, litigation and acquisition of real estate.

A motion was made by Councilmember Wynn for closure to discuss personnel, litigation and acquisition of real estate. Seconded by Councilmember Igleheart. The motion carried by the following vote:

In Favor: 6

Adjournment - With no further business, the Mayor and Council meeting adjourned at 10:52 p.m.