



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, January 9, 2012

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; Judge Maurice H. Hilliard, Jr.; Director of Environmental/Public Works Stu Moring; Transportation Director Steve Acenbrak; Transportation Deputy Director David Low; Human Resources Director Dan Roach; Director of Community Development Alice Wakefield; Community Development Planning and Zoning Director Brad Townsend; Community Relations Coordinator Kimberly Johnson; Fire Chief Ricky Spencer; Police Chief Dwayne Orrick; Deputy City Clerk Betsy Branch.

Pledge of Allegiance

Kristin Dippolito, daughter of Councilmember Dippolito.

Swearing in of the Councilmembers re-elected November 8, 2011

- **Councilmember Rich Dippolito - Post 1**
- **Councilmember Becky Wynn - Post 2**
- **Councilmember Betty Price - Post 3**

Mayor Wood announced Judge Maurice Hilliard would swear in the re-elected councilmembers in order of their posts. Judge Hilliard and the re-elected councilmembers came forward for the swearing in of the Oath of Office.

CONSENT AGENDA

1. **Approval of December 12, 2011 Mayor and Council Meeting Minutes (detailed minutes to replace Council Brief minutes adopted on December 19, 2011); Approval of December 19, 2011 Mayor and Council Meeting Minutes.**

Administration

Approved

2. **Approval of a Resolution to accept a Certified Local Government (CLG) grant award through the State Historic Preservation Office (SHPO) in the amount of \$6,000 and approval of Budget Amendment 7322G6-01-09-12 in the amount of \$10,000.**

Community Development

Approved

3. **Approval of a policy for nonprofit collection bins at the Recycling Center.**

Public Works/Environmental

*At the request of Councilmember Price, this item was removed from the Consent Agenda and placed on the Mayor's Report for discussion.

4. **Approval of a Supplemental Agreement with the Georgia Department of Transportation (GDOT) for the Midtown Streetscape project and approval of Budget Amendment BAG803-01-09-12 to increase the grant account to accept these funds.**

Transportation

Approved

5. **Approval for the Mayor and/or City Administrator to sign an Indemnity Agreement with the Georgia Department of Transportation (GDOT) for the SR 9 at SR 120 Intersection Improvement project.**

Transportation

Approved

6. **Approval to initiate the Right of Way acquisition process on three (3) parcels for the Holcomb Bridge Road Multi-Use Trail project in an amount not to exceed \$1,710.**

Transportation

Approved

Approval of the Consent Agenda

A motion was made by Councilmember Orlans, seconded by Councilmember Dippolito, for Approval of the Consent Agenda. Councilmember Price asked that item number three (3) Approval of a policy for nonprofit collection bins at the Roswell Recycling Center be extracted from the Consent Agenda. Mayor Wood stated it would be removed from the Consent Agenda vote and heard first following the Mayor's Report. The motion carried by the following vote:

In Favor: 6

REGULAR AGENDA

Mayor's Report

1. **Recognition of the City of Roswell for their support of the March of Dimes March for Babies Walk.**

Mayor Wood recognized Walter Rekuc, a former City of Roswell employee, who is the current head of the Sandy Springs Public Works Department. He said Mr. Rekuc has been wearing his March of Dimes hat for 21 years, longer than anyone on this Council has been serving. Mr. Rekuc expressed his appreciation to Mayor and Council for their continual support and time. He introduced Brian Miller, the father of the outgoing Ambassador Family; Chris Harrison; and Jamie Johnson from the March of Dimes, who along with many others have helped put on this event every year. This walk has been held in the City of Roswell for 21 years and has been very successful. This year, over \$356,000 was raised, which is very beneficial to our whole community. In previous years, that amount was surpassed, the intent is to raise more money. He invited everyone to attend the upcoming kick-off luncheon to be held on Thursday, January 19, 2012 at the Metropolitan Club on Windward Parkway. He thanked Council and the many dedicated employees who help to put on the event. There are typically 500-1,000 participants every year. Mr. Rekuc said the event has been a great success with great accolades heard from all the participants about how beautiful the city is. This is a wonderful location and North Fulton brags that of all the March of Dimes walks, this is the prettiest in the state.

Mayor Wood thanked Mr. Rekuc for bringing the March of Dimes walk to Roswell and expressed his appreciation for all that Mr. Rekuc has done over the years for the babies. The Mayor asked how much money was raised over the 21-year period. Mr. Rekuc replied that during the past 21 years, this walk in Roswell has raised more than two million dollars. Mayor Wood asked for a round of applause for Mr. Rekuc and the March of Dimes. Mr. Rekuc said we are just here to help the babies. He presented March of Dimes t-shirts to the Mayor and Councilmembers in appreciation of their support.

2. **Appointment of the Downtown Development Authority (DDA) board members.**

City Administrator Kay Love stated the names of the nominees as follows:

- Monica Hagewood*
- Richard Hessler*
- David Lyon*
- Charles McMillan*
- Ralph Mills*
- Lonnie Mimms*
- Dave Schmit*

Mayor Wood asked if each nominee was notified and is willing to serve. Ms. Love stated that each nominee had been notified, and each had expressed their willingness to serve. Mayor Wood stated there are two 2-year terms, two 4-year terms and three 6-year terms. Ms. Love confirmed that is correct. Mayor Wood asked how those terms were selected. Ms. Love replied the terms were selected randomly. Mayor Wood said they will be serving different term limits. He asked how their successors will be nominated upon the expiration of those terms. He asked if a

councilmember was assigned to the posts. Ms. Love replied yes. Mayor Wood asked how the posts were selected for the councilmembers. Ms. Love replied those would be randomly selected. Mayor Wood asked if they have been selected. Ms. Love replied no. Mayor Wood asked if they would be randomly selected. Ms. Love said yes, to see which appointment is associated with each post. Mayor Wood asked when we would be doing the random selection. Ms. Love replied at the pleasure of the Mayor and Council. Mayor Wood suggested that should be done at the next committee meeting. Ms. Love said that would be tomorrow. Mayor Wood said stated Ms. Love could draw the numbers "out of the hat" so that they are randomly selected and then assigned. Mayor Wood asked for Council questions regarding the nominations. There were no questions. There was no public comment.

Two of the nominees, Dave Schmit and Richard Hessler were present and came forward at the Mayor's request. Mayor Wood thanked both Mr. Schmit and Mr. Hessler for volunteering their services and noted that the nominations were effective immediately. Mayor Wood nominated both Mr. Schmit and Mr. Hessler as the Notification Committee, to pull together the first meeting. The Mayor noted that the DDA first step would be to obtain training and that Community Development Director Alice Wakefield would be their contact person with the City.

Councilmember Diamond stated many applications were received from people with amazing qualifications. She said their intention and plan is to involve as many of them as we can in this and in other parts of the City either on boards, commissions, or committees within the DDA, or other avenues. Mayor Wood was in agreement.

A motion was made by Councilmember Orlans, seconded by Councilmember Diamond for Approval of Appointment of the Downtown Development Authority (DDA) board members as named. The members are: Monica Hagewood, Richard Hessler, David Lyon, Charles McMillan, Ralph Mills, Lonnie Mimms and David Schmit. The motion carried by the following vote:

In Favor: 6

Environmental / Public Works Department - Councilmember Igleheart

Approval of a policy for nonprofit collection bins at the Recycling Center.

** This item was removed from the Consent Agenda (Item 3) for discussion.*

Director of Environmental/Public Works Director Stu Moring stated this is a response to a plan by Better World Books to place collection facilities on various City properties. A determination was made to consider only the Recycling Center. Staff reviewed the proposition and recommended that they provide collection facilities and pay a percentage to the City from the money they collect on those books. There were stipulations that they have discussed with City Administrator Kay Love. Mr. Moring said the Public Works Department staff reviewed the proposition and stipulations, and proposed policy. At the December Administration and Finance Committee meeting, staff presented the recommendation to follow the existing practice of allowing non-profits only to have the pass-through collection facilities. For-profit entities interested in items that were collected would compete against other for-profit companies, as currently done. Mr. Moring explained that for instance, when a certain amount of cardboard is collected, quotes are received from people who are interested in purchasing it. Mr. Moring said that based upon staff's recommendation,

a draft policy was prepared governing the non-profits, which is part of the proposal approved by the Committee. Mayor Wood replied that it was fair to say that the Committee sent it forward to Council for a vote. Mr. Moring replied, "Yes sir, excuse me, I misstated it. The Committee approved for it to be brought forward on the Council Agenda."

Motion: Councilmember Igleheart moved for Approval of a policy for nonprofit collection bins at the Recycling Center. Councilmember Wynn seconded.

Mayor Wood asked for further discussion.

Council Comment:

Councilmember Price said she had spoken with the entity that brought this to the City and they were not aware this was coming up or of the limitations to be placed on them. She said, "There is some terminology, and I don't know if this has gone past legal, but on occasion it could require us to enter into a legal agreement with somebody and probably suggest that we should. I just don't think this is clear as to the procedure. It says we will consider partnerships. Well, who is going to consider them and that is kind of odd. It says requests, but does that require an application or just phone up and say I would like to put a bin there. The first guideline discusses for-profit organizations but then the remainder of the guidelines says non-profits. So, do the remainder of the guidelines apply to a for-profit, if they are selected through the vendor process or do the remainder of the guidelines not apply to them. I think at best, this needs to be gone over with an English teacher's comb mainly with some words that are interchangeable and not clear or defined such as missions and objectives that aren't defined and the suggestion that for some reason a profit organization could not fulfill our missions and objectives. I would like to have legal look at it, the language, and bring it back."

Mayor Wood asked if Councilmember Price disagreed with the wording or with the intent. Councilmember Price replied both. The Mayor asked if she was requesting a denial or deferral. Councilmember Price replied she would like to see it a solid policy but that is not what this is. Mayor Wood said Council could either deny, approve, or defer it. Councilmember Price recommended that it be deferred.

Motion for Deferral: Councilmember Price moved to defer the Approval of a policy for nonprofit collection bins at the Recycling Center. The Motion for Deferral failed for lack of a second.

Further Council Comment:

Councilmember Diamond asked if this was intended to be a legal agreement or a policy statement. City Attorney David Davidson clarified that it is only a policy statement.

Councilmember Price said, "In all fairness, Mr. Davidson, this policy should govern agreements and it doesn't so I think the process by which somebody is accepted or turned down is not clear whatsoever and it implies we already have partnerships but are they partnerships with a handshake or are they partnerships with defined criteria."

Mayor Wood said this is a policy. The Mayor asked Mr. Davidson if a binding legal agreement is proposed, would it come back to Council for a vote. Mr. Davidson clarified that Mayor and Council approve all agreements. Mayor Wood clarified that this is a guideline but does not create a binding agreement. Any binding agreement would have to be approved by this Council, not by staff. Mr. Davidson replied, "Unless Mayor and Council give that authority to do so." Mayor Wood asked if this was giving authority to enter a contract. Mr. Davidson replied no. Mayor Wood

asked Councilmember Price if that clarified it. Councilmember Price replied that it does not because the City has a number of entities that have containers there. She said she was told there are no agreements, so her question is does this now suggest we are going to enter into agreements or not. Mayor Wood asked Mr. Moring to respond. Mr. Moring said, "We have not had the need of an agreement. Our belief and expectation was that this policy, which effectively codifies the practice that has been in place for at least fourteen years, would be solidified as a policy. That would be that the non-profit organization is responsible for removing all of the things from their facilities, to keep it cleaned up, to maintain it and that among other things, they are at the pleasure of the City of Roswell and they could be asked to leave on a 30-day notice." Mayor Wood asked if there is an application process if a non-profit wants to put a collection bin, or who makes the decision as to whether you can or cannot have a collection bin at the Recycling Center. Mr. Moring said there is not an application process. Mayor Wood asked what the process would be if a non-profit wishes to put a collection bin at the Recycling Center. Mr. Moring replied, "They would contact Janet Lieberman, the Environmental Programs Manager, and make a request as is spelled out in here, that they must indicate the nature of the container, the space needs, frequency of pickup and so forth, and that would then be considered. The existing facilities have been there for some time. Every non-profit who has ever requested to be there has been accommodated." Mayor Wood asked who would make the decision if a non-profit asked to locate there. Mr. Moring replied, "If they were requesting to place a container that was for something that is not collected at the Recycling Center, and that is not in conflict with one of the other non-profits. If it were in conflict, then we would ask the two entities to work together and try to reach an accommodation either by sharing the space." Mayor Wood asked if this policy addresses who makes the final decision if there is not a consensus. Mr. Moring said it does not. Mayor Wood asked for further discussion. There was none.

Vote on First Motion: Councilmembers Orlans, Igleheart, Wynn, Dippolito and Diamond voted in favor. Councilmember Price opposed. The motion passed 5:1.

Mayor Wood suggested to Councilmember Price that if there were changes and clarification to this policy she would like to see, she could bring it back at any time. This policy is not a binding agreement and can be changed from day to day. Councilmember Price replied, "As Mr. Moring has said, this basically restates what we are doing. The whole point of this exercise was to get a policy that is clear, and we have not done that; we have just restated what we are doing." Mayor Wood said he understood but if there are things Councilmember Price thought are unclear, she has the option of bringing it back to Council, since it can be changed at any time at the will of this Council.

A motion was made by Councilmember Igleheart, seconded by Councilmember Wynn for Approval of a policy for nonprofit collection bins at the Recycling Center. The motion carried by the following vote:

In Favor: 5

Opposed: 1

Community Development - Councilmember Nancy Diamond

3. **Initiation of a Text Amendment to Chapter 10 of the City of Roswell Code of Ordinances to License and Regulate Mobile Food Vendors in the City of Roswell.**

Presented by Bradford D. Townsend, Planning & Zoning Director

Community Development Planning and Zoning Director Brad Townsend said this is the initiation of a proposed text amendment regulating mobile food vendors. This proposed text amendment was reviewed at the December 28, 2011 Community Development/Transportation Committee meeting. Included in the draft text amendment are definitions of mobile food vendors, licensing requirements, prohibited conduct of those requirements, and indemnification for the mobile food vendors. At committee there was discussion regarding mobile food vendors located a minimum of 200 feet from the main entrance to any eating establishment or similar food service business. Mr. Townsend noted that a Mobile Food Ordinances comparison chart was provided in the Council packet showing how other cities are handling the distance issue. The City of Atlanta has the same requirement of 200 feet from a stationary business. The City of Marietta has no distance requirement. Athens-Clarke County has a distance requirement related to just an intersection, driveway or bus stop. The comparison information also included the hours of operation. Mr. Townsend noted that this is a draft for initiation.

Council Comment:

Councilmember Dippolito asked where the vendors would be allowed to park. Mr. Townsend replied the vendors would be allowed to park in commercial zoning districts with the approval of the property owner. Councilmember Dippolito said they would probably not be in public parking spaces in parking lots. Someone would have to have a commercial lot or a deep enough sidewalk to allow them to pull up on it. Mr. Townsend replied that was correct. Councilmember Dippolito asked if the vendors would be required to have a trash container next door to this. Mr. Townsend replied he would check on the requirement for trash removal but he thought there might be an overlap with state regulations requiring mobile food vendors to have some type of brick and mortar kitchen for food preparation. Councilmember Dippolito said if someone gets a food item that comes in a wrapper there should be a place nearby to dispose of that. Mr. Townsend agreed.

Councilmember Orlans noted the cover page referenced the requirement to have a business registration in the City of Roswell, which he thought would be a normal occupational annual license. Mr. Townsend replied that was correct.

Councilmember Orlans asked for clarification regarding sections 10.15.2 (B), 10.15.3 (G), and 10.15.3 (H), all related to the filing of an application and a Roswell Police Department permit. Mr. Townsend replied section 10.15.2 (B) is the application for the mobile food vendor. In conjunction with that, the Roswell Police Department is requiring the appropriate fingerprinting. Section 10.15.3 (H) is the determination by the Roswell Police Department that the applicant should not be issued the permit. Councilmember Orlans said what he understood is that the vendor will file a normal occupational license on an annual basis and then will have to do an application which covers the permitting by the Police Department, and file the application, as a second process. Mr. Townsend replied yes.

Mayor Wood asked if the City requires restaurant owners to be approved by the Police Department and fingerprinted. The Mayor clarified that he was not asking about restaurant owners requesting alcohol beverage licenses. He said rather than

looking at these ordinances and seeing how complicated they can be made, they should be made simple. The Mayor did not understand why if someone could operate a restaurant without being fingerprinted why a food truck is somehow more "suspect" than a restaurant. Mayor Wood said he would support eliminating that provision. Mr. Townsend asked if that would be sections 10.15.3 (G) and (H) on page 3 of the Text Amendment. Councilmember Diamond said she believed we require servers to have this permit. Mayor Wood replied that is correct if they are serving alcoholic beverages. Councilmember Diamond said she thought it was all restaurant servers. Mayor Wood said he was not sure what would happen if we fingerprinted everyone at all of our fast food restaurants.

Councilmember Price referring to the liability policy amount shown in section 10.15.3 (C) asked if that is a standard amount for restaurants. City Attorney David Davidson confirmed that is a standard amount required in the City. Councilmember Price said section 10.15.3 (D) says the vendor cannot make sounds if moving; it would be equally offensive either moving or not moving since it is the noise that is the problem. Mr. Townsend asked if she would prefer they not be allowed to emit sounds while either moving or stationary. Mayor Wood said this should be thought through. The vendor should not have a public address system blaring noise but "We would not want to throw them in jail just because they were emitting sounds sitting out there." Common sense should be used when drafting these ordinances. Councilmember Price said it either should be eliminated or should be while moving or stationary, one or the other. Mr. Townsend replied ok. Mayor Wood said the only thing he could think of that would be emitting sounds would be like the ice cream truck, which he has no objection to. The Mayor noted that he would not want boom boxes, but there needs to be some middle ground. Councilmember Price said it could be an ordinance of sound limitation. There is a noise ordinance provision so it should apply regardless of whether they are moving or stationary. Mr. Townsend replied that was correct. Councilmember Price said we could eliminate that section. Mr. Townsend said that section could be removed. Councilmember Price referencing the language that the vendor would need to be 200 feet from any eating establishment asked if there is a possibility that an eating establishment might actually give their permission and they might even be affiliated with that establishment. Councilmember Price suggested adding the language "without their written permission." Mr. Townsend asked if she was indicating that they could be closer than 200 feet if the eating establishment authorizes or acknowledges that they can be there. Councilmember Price replied that was correct. Councilmember Price read section 10.15.3 (R), "The mobile food vendor shall sell food items only." She asked if non-alcoholic drinks are considered food because she was thinking of ice cream, snow cones, non-alcoholic drinks, or alcoholic drinks if they have a license to sell alcohol. Mr. Townsend asked if she was suggesting that beverage be added to that section. Councilmember Price said yes, if that is appropriate.

Councilmember Igleheart referring to section 10.15.3 (K) regarding the distance between mobile vendors and existing establishments said he is all for mobile vendors, but at the same time existing establishments have considerable investment in their businesses, and certainly another restaurant could open next door but there is also a substantial investment to that. His concern is that we would allow someone else to drive up that close and be competing with somebody who has put a substantial investment into the City. He asked if there have been any of those type of concerns brought up. Mr. Townsend replied that the one concern heard relates to the mobile food vendor having a local establishment but after tonight, he expects to start receiving calls as to how this will apply and how are we going to establish it. Councilmember Igleheart stated it should be thought through carefully and was not suggesting a change to it at this point. He noted that competition is great, but he was concerned about established businesses and substantial investments versus this

type of competition.

Councilmember Orlans noted that he had brought that point up as well at the Committee meeting, about someone spending a lot of money and renovating a place, especially in the historic district, and then someone else just having a mobile truck coming in as competition who doesn't have that investment in their business. There are good and bad things about this and hopefully it will be battled out through the process and other businesses will be looking at it and provide feedback. Councilmember Orlans said he had also thought about the positive of having competition and the negative of not wanting to take away from existing businesses to that extent.

Mayor Wood said he supports eliminating that provision for two reasons. First, as a property owner in the historic district who has a substantial investment in the City and pays substantial taxes if he wishes to lease part of his parking lot to a food vendor then that is appropriate commerce. Secondly, he believes food vendors, whether a truck or an establishment, like competition as evidenced at shopping mall food courts, which seem to do very well. The Mayor noted that he believes in fair competition.

Councilmember Diamond said she would like to initiate it and asked how far out the second reading could be. City Attorney David Davidson stated this is not a first reading just an initiation. Councilmember Diamond said the initial feedback from some of the merchants is cautiously positive.

Motion: Councilmember Diamond moved for Approval of Initiation of a Text Amendment to Chapter 10 of the City of Roswell Code of Ordinances to License and Regulate Mobile Food Vendors in the City of Roswell. Councilmember Dippolito seconded.

Further Council Comment:

Councilmember Orlans asked for clarification that this is an initiation to begin the process. Mayor Wood confirmed it is only an initiation and not a first reading.

Councilmember Price asked about the process and dates Council would see this again. Mayor Wood said it would be up to this Council when they bring it back, and it that it would go to the Planning Commission. Mr. Townsend disagreed stating that this would not go in the Zoning Ordinance. Mayor Wood said then it will be up to Councilmember Diamond when she brings it back. Councilmember Price asked if it would automatically come back if Council initiates it. Mayor Wood replied no, it would be in your discretion when to bring it back unless you pick a date tonight to bring it back, or you can initiate it and then bring it back at your call. Councilmember Price asked if this can stay at this level from now on or referred back to committee for further discussion. Mayor Wood said he assumed it would go back to committee for discussion. Councilmember Price asked why he would assume that. Mayor Wood replied because this Council likes to discuss things at committee and that is what the practice has been. Councilmember Price asked if that is part of this motion. Mayor Wood replied no, it is only initiation for staff to begin working on this.

Councilmember Diamond said she would recommend March 27, 2012, giving it 60-days. Mayor Wood suggested saying this is a tentative date, leave it in your discretion but that is not part of this motion. This motion only gives the green light to begin working on this.

Mayor Wood noted there was a motion and a second and that Councilmember Diamond recommended it be brought back to Council tentatively March 27, 2012.

There was no further Council discussion. Public comment was invited. There was no public comment.

A motion was made by Councilmember Diamond, seconded by Councilmember Dippolito for Approval of Initiation of a Text Amendment to Chapter 10 of the City of Roswell Code of Ordinances to License and Regulate Mobile Food Vendors in the City of Roswell. The motion carried by the following vote:

In Favor: 6

4.

Initiation of a Text Amendment to allow Farmers' Markets in commercial zoning districts.

Presented by Bradford D Townsend, Planning & Zoning Director

Community Development Planning and Zoning Director Brad Townsend stated this is a proposed text amendment to allow for farmers' markets in commercial zoning districts. On December 28, 2011, the Community Development and Transportation Committee recommended moving the initiation of this application to tonight's meeting. The major points in the proposed text amendment include a permit for a twelve (12) month period; the market must include 75% farm produce; a market manager is required to be on site; hours of operation will be 7 a.m. to 9 p.m. for a maximum of 6 hours per day. Mr. Townsend stated the Community Development and Transportation Committee recommended a maximum of 2 days per week rather than the original 3 days maximum for the farmers' market operation. The Committee also discussed changing the terminology from "special administrative" permit to "farmers' market" permit.

Council Comment:

Councilmember Dippolito referred to page 3 of the proposed ordinance, Section 4, paragraphs (a) and (b) and asked for an explanation of the differences between temporary and permanent markets. Councilmember Dippolito said this is a permitted use and asked if someone could just come in with an application. Mr. Townsend replied, "The current allowed ordinance for a farmers' market was a conditional use in the H-R district and that is what is the big change for what is going on in this text amendment." It is allowing as a permitted use in all of the commercial designations. It is being changed from H-R to permitted, and also allowing an MPMUD as permitted. Councilmember Dippolito asked why there are provisions for farmers' market "temporary" and farmers' market "permanent." Mr. Townsend replied that was existing language of which they are trying to clarify and maneuver into the two designations. He explained that when farmers' market initially was included in the code, it was thought there would be a permanent one in the historic district somewhere that would be allowed conditionally by Council, but that never came to fruition. Now they are trying to migrate from that to the farmers' markets that temporarily set up in a parking lot of particular shopping centers with immense parking spaces. This particular one has been initiated by Sweet Apple Village and their desire to have a weekly market on Thursday that would comply with this type of criteria. Councilmember Dippolito asked if the way it is written, they would be temporary, which means twelve (12) months in most commercial districts. Mr. Townsend replied yes. Councilmember Dippolito asked if they would be permanent in the historic district, so they would not need to reapply every year. Mr. Townsend replied that was correct. Councilmember Dippolito said even though it is temporary, if it is permitted by right, then all someone has to do is apply every year, so essentially it is an annual application but it is permitted permanently. Mr. Townsend said yes, if they meet the criteria then he would be able to authorize the farmers' market permit.

Mayor Wood noted that a temporary farmers' market has no permanent structure since they set up in the parking lot. Mr. Townsend said there are no bricks and

mortar. Councilmember Dippolito asked if a permanent facility would. Mr. Townsend replied that in all likelihood they would have a permanent building, which they would have opened at whatever hours they wanted.

Councilmember Orlans said we originally passed this for one situation if they wanted to do it in the historic district; it was a permanent building and is why in that paragraph it also mentions outside storage because they could not leave things outside. He thought Mr. Townsend was saying that was all we allowed before and they are trying to bring that forward and incorporate into this temporary language as well, so that one paragraph can still apply to that one space or to other ones that could come up in the historic district only and it would be more of a permanent place.

Councilmember Dippolito said he understood but was trying to distinguish this from any other permitted uses in a commercial district and trying to understand the nuances of what is actually allowed here. He asked if this is just making it a permitted use because there were concerns about opening this up and have temporary markets all over the City. Mr. Townsend responded that it makes it a permitted use to allow for that farmers' market permit in any of the commercial zoning districts. Councilmember Dippolito said it was important to think about that.

Councilmember Orlans asked Mr. Townsend if it was set up as conditional. Mr. Townsend responded the original one was set up conditionally in H-R only. Councilmember Orlans asked if this would still be conditional. Mr. Townsend replied no, not the way it is currently drafted. Councilmember Orlans said perhaps that wording should go back into the paragraph. Mr. Townsend referred to Table 7.1 and stated, "staff would change the H-R, where the C is crossed through and the C would be put back, if that is the intent."

Mayor Wood said he was fine with it the way it is. If it becomes a problem then the permit should not be issued the next year to that business. The Mayor said rather than trying to avoid every possible problem, the City should try to be reasonable and allow something. If it becomes a problem then correct it rather than making sure we have a perfect world in which we start and eliminate every possibility of mistake and in the meantime eliminate most businesses.

Councilmember Orlans said these two tables are applying to the new ordinance, which is just calling it a farmers' market. The permanent one is losing its designation, so permanent and temporary should be defined with those tables adjusted accordingly. Councilmember Orlans said that would be one way to go back and cover what we had. Mr. Townsend agreed.

Councilmember Price said she was not sure why this is being limited to the historic district and asked if that meant people on the east side have to come over to this side to go to a permanent farmers' market. Mayor Wood said the direction given to staff was not to create a new permanent district but to allow these one day or two days per week temporary things citywide. They have not been tasked with looking at expanding the permanent but Council could consider that if it wished to do so. The idea was to open up temporary farmers' markets citywide. It was not a conscious decision to limit it to the H-R district on this round. A past Council made the decision to limit it to the H-R district. Councilmember Price asked if Council agreed that it should go back to conditional as opposed to permitted. Mayor Wood said he did not think there is an agreement and that there are different points of view. Mayor Wood clarified that the vote was not being taken on the terms. Councilmember Price said, "If you are saying that this was not intended to change the permanent type structure we have, by the way it is written, unless it is just an oversight." Mayor Wood said the intent was to allow an additional use. There is a permanent use in the H-R district;

the intention was to allow an additional use of temporary farmers' markets, which are limited to produce, and a limited amount of other things, limited in time, limited in structure. There are many limitations on this but it is not limitations other than commercial areas in Roswell and it is not conditional. Mayor Wood clarified that this is an opportunity for Council to give comment but this is not to take a vote on the specific details. Councilmember Price said section (b) on page 3 should be made clear, if it is to be made different, or not.

Councilmember Dippolito said, "We are saying that this is permitted by rights but each year you have to get a permit." Councilmember Dippolito asked for clarification, stating for example, if ten people decide they want to do this, they make application, and then the City decides this is not going the way it was expected it to, if they are permitted by right, make application, and meet all of the requirements, then technically the City cannot prevent them from continuing. Mayor Wood said it would require a change in the ordinance; if it goes from year to year and if Council says it is not going the way they wanted, then Council could change the ordinance and that would change their right. Councilmember Dippolito said then they would be grandfathered. Mayor Wood replied no, this does not create grandfathering and that is the distinction. It is not a permanent structure that becomes grandfathered; this is like a liquor ordinance that can be changed from time to time and does not create grandfathering and the reason why he suggested seeing how it works.

Mr. Townsend clarified that it includes a transfer, the ability to withdraw, and the ability to appeal his decision to the Board of Zoning Appeals.

Motion: Councilmember Diamond moved for Approval of Initiation of a Text Amendment to allow Farmers' Markets in commercial zoning districts. Councilmember Price seconded.

Public Comment:

Janet Russell, 260 Willow Springs Drive, said she had been a proponent of farmers' markets since she moved into the historic district but never knew farmers' market were allowed in the historic district. She expressed her concern about restricting farmers' markets to the outdoors since the historic district has no outdoor space, which is a conundrum. The only acceptable large parking lots in the historic district are churches, the old funeral home and the lot behind City Hall. She asked why farmers' markets are restricted to outdoors and not allowed to be indoors temporarily during the winter. She said this should tie in with the previous text amendment initiation regarding mobile food vendors because mobile food trucks and farmers' markets are one in the same. She suggested the City entice a major grocery store to locate somewhere on Highway 9 between the river and Alpharetta because there are none on the public transit line, and there no drugstores until Walgreens at Mansell Road, six miles from the entrance to the City. She said the majority of people who live in the center section of town are old timers and their food needs are being disregarded. Ms. Russell asked why this had to be restricted to commercial. Grimes Produce has been on their corner for thirty years; the seasonal market off Eves Road at the backside of Martins Landing has been there for twenty years.

There was no further public comment.

Mayor Wood asked staff if an operation like a farmers' market inside a building is currently permitted like a grocery store. Mr. Townsend replied that it would probably be treated like retail. Mayor Wood asked if there could be a farmers' market inside a building. Mr. Townsend said that was correct. Mayor Wood said the City would not limit them from operating inside; this expands where they can sell foodstuffs. Mr. Townsend replied that was correct; outside.

There was no further discussion.

A motion was made by Councilmember Diamond, seconded by Councilmember Price for Approval of Initiation of a Text Amendment to allow Farmers' Markets in commercial zoning districts. The motion carried by the following vote:

In Favor: 6

5.

Initiation of a Text Amendment adding Park Square as an allowable location for a Sidewalk Café.

Presented by Bradford D. Townsend, Planning and Zoning Director

Planning and Zoning Director Brad Townsend stated this is a proposed text amendment to add the north side of Park Square as an allowable location for a Sidewalk Café. At the Community Development and Transportation Committee meeting there was discussion as to whether there are other locations to consider or should this be done citywide. The only other public sidewalk with buildings adjacent to it is the small section of road at Elizabeth Way between Alpharetta Highway and Canton Street and the only location that could in the future make it applicable. Mr. Townsend said that section could be added if Council wished.

Mayor Wood noted that these locations must be permitted and licensed by the City. He suggested that there may be other suitable locations within the City that may have been overlooked. The City has had good success with outdoor sidewalk cafes; people like them, they do not allow obstruction of the sidewalks, and they seem to be very effective. He noted that each license comes to Council for approval; it is almost like a conditional use. The Mayor suggested that it be allowed citywide and that when it comes to the licensing, Council should exercise discretion for its appropriateness. Mayor Wood said for instance, if someone wanted to put a sidewalk café within five feet of Holcomb Bridge Road that would not be a good idea simply because of the speed of the traffic. Mayor Wood clarified this is an initiation of the text amendment.

Council Comment:

Councilmember Price referring to Section 10.39.3 said she would recommend opening it up and having it be conditional, as Mayor Wood stated.

Councilmember Dippolito said he agreed with the concept of opening it up. He asked for the parameters under which an application could be denied. Mayor Wood asked City Attorney David Davidson to respond. Mr. Davidson clarified that it is the City's sidewalk and therefore, Council could turn the application down at any time. Councilmember Dippolito asked if it could be turned down, if Council thought that it is inappropriate for any reason. Mr. Davidson stated that is correct.

Councilmember Igleheart asked for clarification if they would be required to allow for a pedestrian pass-through within the existing space. Mr. Townsend replied that is correct. He explained that the rest of the regulations would remain intact where they would have to provide the 5-foot minimum clear zone to meet ADA requirements. Councilmember Igleheart said as long as those requirements are covered, then wherever it works, it should be allowed.

Councilmember Wynn agreed with Mayor Wood to open it up citywide since Council has the discretion to deny if it is inappropriate.

There was no public comment. No further discussion.

A motion was made by Councilmember Diamond, seconded by Councilmember Wynn for Approval of Initiation of a Text Amendment adding Park Square as an allowable location for a Sidewalk Café with the citywide provision as a part of it. The motion carried by the following vote:

In Favor: 6

6.

Initiation of a Text amendment to approve the Groveway Community Hybrid Form-Based Code.

Presented by Bradford D Townsend, Planning & Zoning Director

Planning and Zoning Director Brad Townsend said this is a proposed initiation to start the process for the Groveway Community Code. Staff is available to all Council members to review it. Staff met with Mayor Wood and Councilmember Diamond. Mr. Townsend noted that on January 30, 2012, a work session is scheduled following the Council Meeting. He noted that staff is ready to take any input at this time.

Mayor Wood encouraged Council to take a hard look at this and to provide their comments to staff sooner rather than later. This is new, far-reaching, and very different from the zoning in the past and there is a lot to understand. It is not a cookie cutter plan. The Mayor said this really has the potential to help redevelopment in Roswell and he hopes Council will move forward with it.

Motion: Councilmember Diamond moved for Approval of Initiation of a Text amendment to approve the Groveway Community Hybrid Form-Based Code. Councilmember Orlans seconded.

Mayor Wood called for public comments or questions. He encouraged the public to participate in this effort. The Mayor explained that the City had already invested a good bit of time in this and that the Atlanta Regional Commission had assisted the City. Mayor Wood said he held discussions with City Administrator Kay Love regarding retaining the services of an architect because it is very architecturally intensive and is not just a zoning matter. There was no public comment made. There was no further discussion.

A motion was made by Councilmember Diamond, seconded by Councilmember Orlans for Approval of Initiation of a Text amendment to approve the Groveway Community Hybrid Form-Based Code. There will be further discussion on this issue at a Special Called Work Session on January 30th. The motion carried by the following vote:

In Favor: 6

Transportation Department - Councilmember Betty Price

7.

Approval for the Mayor and/or City Administrator to sign a design contract with Pond & Company for the Eves Road Complete Streets project in the amount of \$273,340.

Presented by Steve Acenbrak, Director of Transportation

Transportation Director Steve Acenbrak said this is another important mobility infrastructure project that will bring a much-needed complete street to one of the City's major corridors that travels to and from the river. Mr. Acenbrak stated a

solicitation for this project was issued with twenty letters of interest received. Five firms were asked to provide full proposals for consideration. Pond & Company was selected as the most qualified proposer. He displayed an overhead graph pointing out Holcomb Bridge Road, the river, and Georgia 400. Mr. Acenbrak said the scope of work includes improvements that will extend from Riverside Drive to Holcomb Bridge Road. It is approximately a mile and a half long and will include the travel lanes, operational improvements, bike lanes, sidewalks, multi-use trails, and landscaping.

Mayor Wood asked how much had been budgeted for the entire project design and construction. Mr. Acenbrak said \$274,520 is available in the Eves Road Complete Street Project cost center. Mayor Wood said it has not been budgeted for construction. Mr. Acenbrak replied that is correct. Once the project is under design and there is an estimated right-of-way from the design, Transportation will be in a position to say how much this project will cost. Mayor Wood asked if there is an estimated cost. Mr. Acenbrak replied \$1.5 million. Mayor Wood asked where that fund is coming from. Mr. Acenbrak replied this is an ideal bond project. Mayor Wood said it could be a potential bond project. The City does not currently have the resources. Mr. Acenbrak replied that is correct.

Council Comment:

Councilmember Price said she hated to expend monies if the thought is that there is no money to follow it, but would make the motion and let Council weigh in. There was no further discussion by Council.

There was no public comment.

A motion was made by Councilmember Price, seconded by Councilmember Dippolito for Approval for the Mayor and/or City Administrator to sign a design contract with Pond & Company for the Eves Road Complete Streets project in the amount of \$273,340. The motion carried by the following vote:

In Favor: 6

Mimosa Boulevard plans

Councilmember Price brought up this item for discussion and possible public comment.

Councilmember Price said two items had moved up from Committee to this evening's meeting but the Mimosa Boulevard Plans had not made it onto this agenda. She said some people had indicated they were planning to attend tonight's meeting regarding these plans but staff did not have a rendering ready at this point and asked if it would be permissible at this time for people present in the audience that wished to address this, to make their comments.

Mayor Wood called for public comment from anyone in the audience regarding the Mimosa Boulevard "no parking" signage. There was an inaudible comment. Mayor Wood clarified that Council would not be voting, this was to see if there was an update.

Mayor Wood said he thought Transportation Director Steve Acenbrak had previously mentioned there might be a loss of five parking spaces for sight distance and possibly another five spaces for mailboxes. The Mayor asked where Transportation is in this process.

Mr. Acenbrak explained that Transportation is looking at the geometric aspects of Mimosa Boulevard to maximize parking along that corridor, but not to limit the sight distance of people who are exiting their driveways, which would create safety issues. He said there is also the operational aspect of mailboxes because there have been issues about mail not delivered because of a parked car. There are other issues such as fire hydrants and other things, which are being looked at in detail.

Mayor Wood said people were anxious that this move forward and asked when they anticipate bringing this back. Mr. Acenbrak replied that it is scheduled for the next City Council meeting on January 23, 2012. Mayor Wood asked if there is a Committee meeting between now and then. Mr. Acenbrak replied there is not, but as Councilmember Price stated, Council did approve to move this forward to Council at the last Committee meeting. Mayor Wood suggested making the parking plan diagrams available to Council before the next meeting. Mr. Acenbrak said he would do so.

Public Comment:

Kathy Swan, Director of the Drake House, thanked the City of Roswell for their expediency in working with them for the opening of the Drake Closet, a small resale boutique on Mimosa. Ms. Swan said it is important to them to have the "no parking except on Sunday" signs removed. She said there are only four signs but no parking impedes the ability for older or handicapped people to come into their store. The parking is on the side of the property but there are six steps up in order to get into the store but if the signs were removed customers could park directly on the store side rather than parking on the Roswell United Methodist Church side and crossing Mimosa Boulevard. She expressed her appreciation to Council for their consideration in this matter. She noted that Drake Closet is doing well and they would appreciate anything Council could do regarding economic development on Mimosa Boulevard, they would like more business neighbors. Mayor Wood thanked Ms. Swan for the service Drake House provides in Roswell. No further comments.

Mayor Wood clarified that was discussion of this matter and since this was not an agenda item Council would not be voting. He noted that it had been placed on the agenda at Committee but was inadvertently removed. Councilmember Price asked if it was appropriate to make a motion at this time. Mayor Wood replied no, it would not be appropriate to make a motion if it was not an agenda item on a published agenda. Councilmember Price said it was on the agenda and then removed. Mayor Wood said he did not want to vote on something that was not on the published agenda.

This item will be coming forward to a Mayor and Council meeting regarding the "No Parking" signs.

City Attorney's Report**8. Election of Mayor Pro-Tem.**

City Attorney David Davidson stated the City of Roswell Charter Section 3.100 requires the election of the Mayor Pro-Tem at the first meeting in January of each year. Councilmember Dippolito is currently serving but is no longer eligible because a councilmember cannot serve consecutive terms as Mayor Pro-Tem.

A motion was made by Councilmember Dippolito, seconded by Councilmember Orlans to nominate Councilmember Wynn as Mayor Pro-Tem. There were no further nominations. The motion carried by the following vote:

In Favor: 6

9. Recommendation for Closure to discuss personnel and acquisition of real estate.

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

In Favor: 6

Adjournment

After no further business, the Mayor and Council meeting adjourned at 8:22 p.m. Mayor and Council reconvened for a work session to discuss the Historic Gateway Project and the Defined Contribution Plan Design Update.