



# City of Roswell

38 Hill Street  
Roswell, Georgia 30075

## Meeting Minutes Mayor and City Council

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

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Monday, March 24, 2014

7:00 PM

City Hall

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### WELCOME

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

*Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Police Chief Rusty Grant; Administrative Assistant Tracey Hanrahan; Detective Dana DeWeese; Sgt. Kyle Ratliff; Detention Officer Julianna Brumann; Officer Joshua Avren; Officer Paul Reid; Environmental/Public Works Director Stu Moring; Environmental Programs Manager/Executive Director of Keep Roswell Beautiful Janet Liberman; Recreation, Parks, Historic and Cultural Affairs Assistant Director Morgan Rodgers; Community Relations Manager Julie Brechbill; Community Relations Digital Media Designer Joel Vazquez; Building Operations Technician Tim Thompson; Deputy City Clerk Betsy Branch.*

### Pledge of Allegiance - Dale Longo - Owner of Jersey Mike's

*Mayor Wood invited Ms. Longo to address Council and the public. Ms. Longo noted that Mayor Wood had declared Thursday, March 26, 2014 to be the "Day of Giving" at Jersey Mike's stores. She noted that on March 26, all Jersey Mike's stores nationwide will donate proceeds, with each store designating a different charity. The Roswell Jersey Mike's will donate one hundred percent of their proceeds that day to Bert's Big Adventure, a non-profit organization that caters to terminally and chronically ill children and their families. This organization takes the child and his or her family to Disney World; provides "fairy godmothers" to help tend to the hospitalized children, as well as their families by bringing in meals, presents for the child, and other help these families find they might need. Last year on the Day of Giving, the Atlanta Jersey Mike's stores raised \$80,000 for Bert's Big Adventure. Ms. Longo said she is passionate about the Bert's Big Adventure organization. This event and this organization is the legacy of her grandson who passed away in 2006 at the age of five from liver cancer. She encouraged everyone to participate in the Day of Giving. Mayor Wood said he will be at the Roswell Jersey Mike's for the Day of Giving on March 26, 2014, and encouraged everyone to participate and join him.*

**CONSENT AGENDA**

- 1. Approval of the February 10, 2014 Mayor and Council Meeting Minutes (to replace the Council Brief approved on February 24, 2014); Approval of the March 10, 2014 Mayor and Council Meeting Brief.**  
*Administration*  
**Approved**
- 2. Approval of a Resolution to accept the Project Year (PY) 2014 HOME Investment Partnership Program (HOME) Grant in the amount of \$93,871 and approval of Budget Amendment 22115000-03-24-14 in the amount of \$93,871.**  
*Administration*  
*Through its participation in the Georgia Urban County Consortium (GUCC), the City has received its PY2014 HOME grant award in the amount of \$93,871. Programming of the funds will occur through an application process and will be approved by Mayor and Council at a later date.*  
**Approved**  
  
Enactment No: R2014-03-09
- 3. Approval of a Resolution in support of an application to the Georgia Department of Community Affairs (DCA) for 2014 low-income housing tax credits for the redevelopment of the Roswell Housing Authority Veranda at Groveway project.**  
*Administration*  
*The Roswell Housing Authority (RHA) has requested that the City of Roswell support the redevelopment for the Veranda at Groveway and the tax credit application with DCA for 2014.*  
**Approved**  
  
Enactment No: R2014-03-10
- 4. Approval to renew the SWAT Memorandum of Understanding (MOU) between the cities of Alpharetta, Milton, and Roswell.**  
*Public Safety*  
*This item renews the MOU between the Alpharetta Department of Public Safety, Milton Police Department, and Roswell Police Department. This annual renewal is to support participating agencies to receive and extend assistance in the form of unified SWAT and Crisis Negotiation teams with related services and resources when requested. There has been an MOU between these cities since June 2012.*  
**Approved**

**5. Approval to apply for a New Initiative Grant Program from the Georgia Recreation and Park Association in the amount of \$1,000.**

*Roswell, Recreation, Parks, Historic & Cultural Affairs*

*The Georgia Recreation and Park Association New Initiative Grant Program is intended to spur innovation in parks and recreation services at a local or regional level that ultimately could have state-wide impact. Grant funding is available for new initiatives that demonstrate innovation in parks and recreation services. This grant would help offset the registration cost for the City's new Adaptive Friendship Camp. This full-day summer day camp for children with special needs will be an "all-comers" program, which will accept any participants, regardless of their diagnosis. The grant would help drive down the cost of this camp that require a high number of camper-to-counselor ratio.*

**Approved**

**Approval of the Consent Agenda**

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

**In Favor: 6**

**REGULAR AGENDA**

**Mayor's Report**

**1. Recognition of the 2013 Roswell Police Department employee awards.**

*Roswell Police Chief Rusty Grant stated the Roswell Police Department is made up of many outstanding officers and civilians that do their jobs every day, which makes the department so great. Chief Grant presented the following Roswell Police Department employee awards for exemplary service rendered during the 2013 calendar year:*

*Officer of the Year - Detective Dana DeWeese  
Supervisor of the Year - Sergeant Kyle Ratliff  
Detention Officer of the Year - Julianna Brumann  
Communications Officer of the Year - Michelle Schneider  
Civilian of the Year - Tracey Hanrahan*

*Chief Grant presented Detective DeWeese the Officer of the Year award. Chief Grant stated Dana DeWeese is a CID detective and specifically works crimes against persons, and has worked Uniformed Patrol. He has been with the Roswell Police Department for 18 years. Chief Grant said Detective DeWeese did an outstanding job as one of the lead detectives on the recent case involving a missing mother and child. Chief Grant said that as someone with an investigator background, he was proud of the job that Detective DeWeese did, as well as that of the entire CID.*

*Chief Grant presented Sergeant Kyle Ratliff the Supervisor of the Year award. Chief*

Grant stated Sergeant Ratliff has been with the Roswell Police Department for 6 years, was promoted to supervisor at 1 year of service, and promoted to Sergeant one year ago. Sergeant Ratliff has worked in the Uniformed Patrol Division, worked a short time in Crime Suppression, and currently is the Sergeant of the Traffic Unit; he also is a Motor Officer.

Chief Grant presented Julianna Brumann the Detention Officer of the Year award. Chief Grant stated Julianna Brumann has been with the Roswell Police Department for 11 years. He said this is kind of an unusual award because although she has spent most of career as a detention officer, within the last few months she became an Evidence Technician, and is now helping to maintain and track all evidence.

Chief Grant stated Michelle Schneider has been awarded the Communications Officer of the Year award. Officer Schneider has been with the Roswell Police Department for 26 years, and has helped train other officers in Communications, as well as being an Officer in Charge when the 911 Manager is not present. Chief Grant noted that Officer Schneider was not present at this meeting tonight but she would receive her award and be recognized.

Chief Grant presented the Civilian of the Year award to Tracey Hanrahan. Ms. Hanrahan has been with the Roswell Police Department for 16 years and has spent her career in the Training Unit. Chief Grant explained that her role is vital to the Police Department since she maintains a very good relationship with the Georgia Peace Officers and Standard Training Council Post and handles the department payroll.

Chief Grant noted that there are a lot of heroes in the Roswell Police Department, and two would be recognized this evening. Chief Grant stated Officer Joshua Avren and Officer Paul Reid have earned the Life Saving Medal for their swift actions on June 27, 2013 and December 28, 2013, respectively in rendering life-saving CPR to each of their victims.

Chief Grant explained that Officer Joshua Avren responded to a call where a sixteen year old female was found hanging from a tree. When Officer Avren arrived, the person had already been brought down and CPR was being given; Officer Avren took over performing CPR and because of his efforts she survived. Chief Grant stated medical personnel have said the young lady's life was saved due to Officer Avren's quick action and training. Chief Grant presented Officer Avren the Life Saving Award.

Chief Grant stated Officer Paul Reid has only been with the Roswell Police Department since last October but does an outstanding job. Officer Reid responded to a call of a person down on Warsaw Road. When he arrived, he found a small child lying in a hallway and quickly began to perform CPR. Chief Grant stated medical personnel have stated that because of his quick actions this child survived. Chief Grant presented Officer Reid the Life Saving Award.

Mayor Wood and City Council congratulated the 2013 Roswell Police Department employees who received these awards and expressed sincere appreciation for their service. Pictures were taken with each award recipient and their family.

**2. Reading of a Proclamation recognizing the Roswell Police Department for 160 years of service to the citizens of the City of Roswell.**

*Mayor Wood conducted the reading of the proclamation stating: "Whereas, Roswell, known as "The Village," was constructed under the supervision of Roswell King in the late 1830's. At that time, law enforcement was handled by the Sheriff of Cobb County. In 1854, Roswell incorporated "for the regulation of the police of the Village" and the Village became the Town of Roswell. Roswell became part of Fulton County in 1932 and became part of their jurisdiction. In 1950, Roswell became known as the City of Roswell and a formal jail was constructed. Radios were installed in police cars allowing contact with the Atlanta Police Department. In 1978, the Department began a new era of professionalism; for the first time, 100% of the Police Officers had completed a 240 hour Basic Law Enforcement Training Course. The City of Roswell Police Department is a highly respected and fully accredited Law Enforcement Agency. In July 1995, the Roswell Police Department was awarded CALEA – Commission on Accreditation for Law Enforcement Agencies and the Georgia Association of Chiefs of Police Georgia State Accreditation. In 2012, our 911 Communications was awarded the International Academics of Emergency Dispatch Triple Certification; Currently, the City of Roswell Police Department employs over 200 highly trained and State Certified employees, which includes specialty units in Criminal Investigations, Crime Suppression, Narcotics, K-9, SWAT, Crime Free Community Housing, and 911 Communications; Mayor and Council appreciate the dedication and service of the members of the Roswell Police Department and wish to recognize 160 years of proud service to the citizens of the City of Roswell."*

*Mayor Wood congratulated the Roswell Police Department on 160 years of law enforcement service to the City. He thanked the men and women of the Roswell Police Department for their dedication to the protection of the citizens of the City of Roswell.*

*Police Chief Rusty Grant stated he had become aware of this 160 year anniversary just a few months ago. Special commemorative badges have been ordered for the uniformed officers; these badges are similar to those worn one hundred years ago by the Roswell Police Department; civilian employees will receive a pin identical to the badge. Chief Grant said the Roswell Police Department is an excellent police department, one of which he is very proud to be associated with. Mayor Wood stated the City also is very proud of the Roswell Police Department.*

**3. Reading of a Proclamation for American Red Cross Month 2014**

*Mayor Wood conducted the reading of the proclamation, declaring March 2014 as American Red Cross Month. The Mayor encouraged all Roswell citizens to support the Red Cross, especially in this Centennial Year for the Atlanta Red Cross organization. The Mayor recognized Red Cross Board Members Mr. Phil Geminder and Ms. Meredith Sidewater.*

*Mr. Geminder, stated he is a volunteer board member for the Atlanta Metro Red Cross Chapter and is a citizen of Roswell. He expressed his appreciation to the City of Roswell for recognizing the Red Cross. He noted that what makes the Red Cross special is that it really is about neighbors helping neighbors. This is the 100th year of service for the Atlanta Metro Red Cross Chapter.*

*Ms. Sidewater stated Metropolitan Atlanta relies heavily on the Red Cross; Red*

*Cross relies heavily on the local communities to support its mission which includes disaster preparedness and response, blood services, life-saving training, support for military families and veterans, and emergency communications for international families. Ms. Sidewater encouraged the citizens of all communities to visit the Atlanta Red Cross website to learn more about volunteering, and thanked Mayor and Council for the recognition and opportunity to speak about the service Red Cross provides.*

**4. Approval of a Board of Zoning Appeals reappointment - Ida Patterson Dorvee.**

*Mayor Wood introduced this item. There was no Council discussion.*

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

**In Favor: 6**

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

**5. Approval for the Mayor and/or City Administrator to sign a contract with Goodwill of North Georgia, Inc. for the provision of Clothes and Hard Goods Drop-Off Services at the Roswell Recycling Center.**

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

*Councilmember Dippolito introduced this item. Environmental/Public Works Director Stu Moring stated this is a service at the recycling center for the collection of reusable goods. Goodwill has been at that location for 18 years, perhaps longer. Mr. Moring said a Request for Proposal was issued to consider those charitable organizations that would be interested in providing that service. The City received two proposals. These proposals were reviewed based on the established levels and requirements of service. Mr. Moring said Goodwill was the selected organization. With the approval of this contract, Goodwill will begin to pay the City at the rate of 11.5 cents per pound for materials that are dropped off. Mr. Moring stated staff recommends approval for this contract. He offered to take questions.*

*Mayor Wood called for any Council questions. None were made.*

*Mayor Wood called for the motion.*

*Motion: Councilmember Dippolito moved for Approval for the Mayor and/or City Administrator to sign a contract with Goodwill of North Georgia, Inc. for the provision of Clothes and Hard Goods Drop-Off Services at the Roswell Recycling Center. Councilmember Diamond seconded. Public comments were invited.*

*Public comments:*

*Ed Zito, 2914 Lenox Road, Atlanta, representing American Kidney Services (AKS), thanked the committee for doing a thorough job of investigating both organizations to see if they were qualified. He said the committee uses a point system; Goodwill received a few more points than American Kidney Services in the category of experience doing the job; Goodwill has been there for 20 years or so. He said it did not disqualify American Kidney Services. He noted that AKS does about 300,000 home pickups per year which "is much more difficult than standing at a truck and*

having people drop off things to you.” Mr. Zito said the easiest thing they did was to put a truck at Sandy Springs where Goodwill had been; Goodwill never compensated Sandy Springs. He stated, “We came in, we paid them thousands of dollars since we have been there five or six months. The qualification of collecting clothes at a truck is not challenging.” He said he was not sure that Goodwill had experience collecting clothes where the host property is being compensated; Sandy Springs is happy with the compensation, but the level of service, as was discussed at a former work shop, has improved. He said it is not a matter of being able to do it, it is a different set scenario; the clothes have to be weighed, the truck has to be weighed, reports have to be given, checks have to be cut; it is different than what has been happening so far. Mr. Zito said, “My question would be, if Goodwill has more experience paying host locations then, who are they paying and why haven’t they paid Roswell?” He said regarding the points on the Request for Proposal, on that section of the request AKS won that hands down. He said, “We offered 60% more revenue to the City of Roswell than Goodwill did. The committee estimated, based on the tonnage that Goodwill would be providing now, from \$0.00 to \$100,000, which is great. But of course, AKS would be providing \$160,000. I don’t think this contract is based on who is capable. Both organizations are very capable. AKS has been doing thirty years as well and we do it in a little different manner. It is nice to have people come to you, it is an advantage. It costs a lot to have those trucks on the road. That is what is enabling us to be able to pay the City of Roswell because all those clothes that we have been collecting we will not have to have those forty trucks out on the road collecting them at the same time. It is not a matter of who does a better job as far as the charity. Both charities are highly rated. American Kidney Fund is one of the top three charities in the country. Ninety-seven cents of every dollar goes to helping kidney patients, financial aid to kidney patients. We are saving lives. Providing jobs is important. Saving lives is important too. I assure you American Kidney Fund would not jeopardize their reputation by putting their logos on our trucks to go out there. It is trust factor. It really comes down to money. Loyalty is there, Goodwill is given a second chance. The Council asked the committee to go back to Goodwill and say will you match the offer or even bump it up. Give us a chance. Goodwill has been there twenty years. Give us a year to prove ourselves. You won’t be disappointed.” Mr. Zito offered to take any questions.

George Staska, representing Goodwill of North Georgia, in response, stated, “Goodwill served Fulton County for ninety years. We were formed in 1925. We have a well-established brand that the community trusts. We would never do anything where we would know we would be taking advantage of a community or damage our long standing relationships. For 18 years we have operated there at the Roswell Recycling Center and for 18 years there have been no issues raised with us from staff that runs the facility or the City. We believe that speaks volumes as far as the trust that the City places and the public places in our operation there. We have sites that operate just like the one at the Roswell Recycling Center, and have for years, we don’t pay rent there. We have other sites that we pay rent at. For 18 years, nobody approached us from the City there asking us as rent being a point of negotiations. There is nothing underhanded here where our competitor implies that we are trying to cheat the City or anything like that. We have multiple relationships across our territory and all these are under attack by the same tactic. The scoring of the RFP suggests that we are not equally qualified. We are very different; we are different in many ways. American Kidney Services is the collection arm of a for-profit privately held company called Value Village. The funds that are generated by the sale of those goods will have little or no effect in Roswell or the citizens of North Georgia. At Goodwill, when you donate to us, those goods will be sold in the local community, in local stores here in Roswell to benefit the local citizens of the community of Roswell and surrounding communities. The goods in the Value Village system will probably be taken to their warehouse, and sent out somewhere in their system (remainder not

clearly audible); when you donate to us or donations are used to put people to work. That is what we do. We have a direct positive impact on the communities where we operate creating jobs, job placements, and that kind of stuff. Our mission is important. We were founded in 1925 with one thing only, to put people to work in North Georgia. We do this in Roswell with our five locations and all across the North Georgia territory. We are not equal. We do a lot of things differently. We feel that you should consider what Goodwill does as far as mission and the impact we have in the community surround us. Elaine can talk further about the impact.”

Elaine Armstrong, representing Goodwill of North Georgia, said she wanted to highlight the impact Goodwill has made in the City of Roswell. Ms. Armstrong stated, “You heard Mr. Zito mention how many donors they had served in their community. We have yet a long standing history as staff has noted; 18 years. During that time, we have collected over 500,000 donors that are served just in your community alone; almost one million customers. Tax revenue; we have two stores here so we have provided tax revenue back to Fulton County and the City of Roswell. This recycling center also supports four jobs. Four employees work at Goodwill, and George mentioned the direct effect of our mission services. It is helpful to know that your donations, every time that somebody donates to Goodwill, it helps somebody else in Roswell. In fact, we helped more than 112 people in your City alone, for job placement and job training services, and placed many of those people. I would like for you to consider that when your donations go local to Goodwill, they stay here; we are not going to take them anywhere else. It is a direct community impact on your City right here. We would like for you to consider keeping us there. We have had a long standing relationship. We would never do anything to jeopardize our brand. Mayor Wood has also been able to come out and cut a ribbon at our recent store last year. He probably saw first-hand the effect of opening a Goodwill location in your community. I would just like you to consider that as you continue on with your vote this evening. Thank you.”

No further public comments were made. Mayor Wood noted that everyone is allowed to speak once.

Council questions:

Councilmember Price said she would like to hear a rebuttal from the other gentlemen regarding what Council just heard. Mayor Wood replied that Councilmember Price was allowed to ask the gentleman from American Kidney Foundation her questions.

Councilmember Price replied, “I may have some things that I would like to say, I’m not sure that I have a question about it. I don’t know how to refute or support anything that has been said, so I think the dialogue between them is helpful.”

Mayor Wood replied, “If I allow rebuttal, then I will have to allow a surrebuttal. Each charity has had an opportunity to speak. If you have any specific questions, we will respond to that.”

Councilmember Price replied, “Specifically, I would ask the gentleman why he raised his hand, what was he going to say.”

Mayor Wood replied that American Kidney Services would be allowed one additional minute to speak.

Mr. Zito stated, “Thank you very much. I by no means am here to trash Goodwill. It is a good organization. I don’t know why they keep going back to the Value Village. We are very, very proud of Value Village being our partner on this. They are our corporate sponsor. They pay for a lot of the expenses with the trucks going out



there. It was not part of the RFP of what store gets what retail. Value Village buys all the items by the truckload. They don't pick one item out here and one item out there and say you get rid of the rest. We weigh it and they buy the whole truckload, everything then from that point is totally recycled. The clothes go on the rack. The hangers go in the metals. The plastics, the paper, everything is recycled. We are one of the biggest. We have recycled 120,000 pounds of clothes per week. We are proud of Value Village. There is nothing wrong with the fact that Value Village may or be a for-profit. It has nothing to do with this RFP because we get paid from the time it gets dropped off at the store; those proceeds go to American Kidney Fund. What happens from there is insignificant." No further comments.

Mayor Wood asked if there were any other questions for either charity. No further questions were asked.

Council discussion:

Councilmember Price stated, "We have talked about this at several Committee meetings because we had questions and Mr. Moring followed up on those. I think we have learned a good bit more than just came through the RFP because I think that there was a lot of qualitative assessment there that didn't necessarily address you know all those issues that we have talked about. So, I feel that we have got two very competent and worthy groups to choose from and I guess what concerns me that one of them is willing to share some revenues with us and one of them is willing to almost match that. I guess I didn't hear from Goodwill to say that they didn't think that the American Kidney, the Kidney Fund could do it for that. So then, it makes me wonder why they couldn't match it. If the offer that the Kidney Services is offering us is doable, then that seems like the reasonable course, but if there is a sense that that is an unrealistic offer to us, then that would be a different matter altogether but I haven't heard that criticism levied therefore, I feel that the Kidney Service would probably be the preferable choice."

Councilmember Diamond said, "I am hugely uncomfortable debating the merits of one charity over another. I think they both serve a valuable resource and I wouldn't propose to make a decision based on that. To me it comes down to a couple of things. The idea that we are making money off of a non-profit is a little uncomfortable anyway, but I would weigh that against the value of the rental occupancy that our City is getting on four locations. I believe there is an investment that Goodwill has made here. The Sandy Springs experience has been very positive and I hope it continues to be but it has been four months. I don't think that is a game changer to me. I feel that Goodwill has demonstrated an investment in Roswell in four rent paying locations. That offsets to me any cash that we might get from a business that we are collecting money off of people's clothes. I am comfortable with Goodwill at this point, at least until there is a history of anybody else that warrants worth looking at again."

Councilmember Wynn said she agrees thoroughly with Councilmember Diamond. She said, "We are here to invest in our Roswell businesses. Goodwill has demonstrated that they want to be a part of Roswell with their four stand-alone buildings. We appreciate them. We appreciate everything they have done. I will be casting my vote for Goodwill."

Councilmember Price stated, "In our packet, it says we are being asked to sign a contract, or Mayor and City Administrator to sign a contract, but I don't see the contract. Also, I don't see any of the comparisons that we had looked at early between the two organizations. All I see in the packet really is sort of a promotional for Goodwill. To me, I don't want to be advocated for in that way. I would rather if we truly have two entities to compare, I would like to see us comparing them freely and with all information available to us."

Mayor Wood replied, "Mr. Davidson, I understand it is 11.5 cents a pound from Goodwill. How many cents a pound was it from the American Kidney?" Environmental/Public Works Director Stu Moring stated, "18.5 cents per pound." Mayor Wood asked for the terms of the contract and if both had the same term. Mr. Moring replied, "It is one year with two renewable options." Mayor Wood asked if that would be renewable at the option of Goodwill. Mr. Moring replied, "No sir, at the option of the City." Mayor Wood clarified it would be the City's option, so the City could choose not to continue this beyond twelve months." Mr. Moring said that is correct. Mayor Wood asked if other than the price, are the two contracts the same. Mr. Moring stated the contract would be something that City Attorney David Davidson (sentence was not completed). Mayor Wood said we have not drafted the contract yet. Mr. Moring replied, "No, but it would be the same contract regardless of the vendor." Mayor Wood replied, "There is no difference in the contracts other than the price per pound. Same term. It will be twelve months." Mr. Moring said, "Details of coverage, cleanliness, and operational; staying out of the way. That sort of thing." Mayor Wood stated "If there is a breach of the contract because they don't keep things clean, is it terminable." Mr. Moring replied that is correct. Mayor Wood said that as he understood it, the contract is to be drafted but the City would be drafting the contract. Councilmember Price asked, "Have we operated under one." Mayor Wood asked if the City currently has a contract with Goodwill, they are currently on the site. Mr. Moring replied, "No sir. We don't have a written contract. It has just been the practice of a number of years since before I was here." Mayor Wood stated, "Apparently the practice has worked well. It is just the price that is in question."

Mayor Wood called for any other questions. There were none. Mayor Wood asked if there was any further Council discussion before the vote. There was none.

**Council Member Dippolito moved for Approval for the Mayor and/or City Administrator to sign a contract with Goodwill of North Georgia, Inc. for the provision of Clothes and Hard Goods Drop-Off Services at the Roswell Recycling Center. Council Member Diamond seconded.**

**Council Members Orlans, Igleheart, Wynn, Dippolito, and Diamond voted in favor. Council Member Price was opposed.**

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

**In Favor: 5**

**Opposed: 1**

**6. Approval of Budget Amendment 50743200-03-24-14 in the amount of \$100,000 to increase the City's contribution to the Stormwater Best Management Practices (BMP) Wetland Design at Roswell Area Park, [U.S. Environmental Protection Agency (EPA) Grant # 00D15213].**

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

*Councilmember Dippolito introduced this item. Environmental/Public Works Director Stu Moring stated this is a project this is part of the City's watershed improvement plan. It is aimed at helping to correct bacteria pollution issues in Crossville Creek, specifically by adding best management practices at Roswell Area Park. Mr. Moring explained that the project was approved for a matching grant by the EPA, however because of the timing of the project four years ago, the costs have now escalated. The agreement with EPA was for 55% of the cost on the part of the City, 45% of the cost paid by EPA; a total project cost of \$98,000. This proposal is to increase that by an additional amount of \$100,000 from the Stormwater Utility Fund which will allow complete construct all of the best management practices at the current time. Mr. Moring said it is staff's recommendation to proceed with this. Staff has conferred with the Recreation and Parks Department. Recreation and Parks staff is fully in support of this project and prepared to petition the Finance Department for additional budget funds if the need is there.*

*Council comments:*

*Councilmember Dippolito said he thought it is a good project. It is important for the City to demonstrate to the public our desire to have best management practices on all City facilities. Councilmember Dippolito said, "I applaud your efforts here. It is unfortunate the costs went up. Is there an opportunity potentially to go back to recover some of this from the Federal contribution?" Mr. Moring replied, "Never say never, but with the nature of the Federal appropriation process it is challenging to develop any sort of increase. I think if there was a show of faith by the City to increase our contribution that would give us an impetus to approach them and say we are willing to put an additional "x" amount of money, \$50,000. Is there a possibility to get some additional but because they don't really have money sitting around, it at best would probably take some additional time before that could be achieved. But, certainly that is an avenue that we could follow and work with our Grants Coordinator to be able to do that." Councilmember Dippolito replied, "I am in support of us moving forward but I would also like us to try to pursue that." Mr. Moring replied, "Absolutely, it makes good sense. I agree."*

*Mayor Wood invited public comments. There were none. The Mayor called for any further Council discussion. There was none.*

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

**In Favor: 6**

7. **Approval of Budget Amendment 50544400-03-24-14 in the amount of \$78,000 to create the Thomas Street Waterline Replacement Project.**

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

*Councilmember Dippolito introduced this item. Environmental/Public Works Director Stu Moring stated Thomas Street runs between Pratt and Pine Grove Road. Currently there is a 2" galvanized pipe at that location that does not connect to Pine Grove Road. Mr. Moring said the plan would be to replace that pipe with an 8" ductile iron pipe meeting our modern standards that would bolster the water system in that vicinity. The reason this is proposed as a budget amendment is that this is the next project on the priority matrix for the water system. The idea would be to transfer funds from another project that will not be completed this year to the Thomas Street waterline. Mr. Moring stated staff recommends approval. Mayor Wood asked for any questions. No questions were heard.*

*Motion: Councilmember Dippolito moved for Approval of Budget Amendment 50544400-03-24-14 in the amount of \$78,000 to create the Thomas Street Waterline Replacement Project.*

*Councilmember Wynn seconded the motion.*

*Public comments:*

*Lee Fleck, Martins Landing, stated Councilmember Dippolito read into the motion the budget amendment but did not state specifically the amendment number. Mr. Fleck said, "Is it safe for me to assume that the amendment number beginning with 505 is actually contained within the Water Enterprise Fund."*

*Mayor Wood asked City Administrator Kay Love to clarify where the money would be coming from. Ms. Love confirmed that is the Water Fund. Mr. Fleck had no further questions or comments.*

*No further public comments were made. No further Council discussion.*

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

**In Favor: 6**

**Public Safety - Councilmember Jerry Orlans**

8. **Approval of an amendment to the City of Roswell Code of Ordinances, Chapter 13, Offenses and Miscellaneous Provisions, Section 13.1.13, Noise Control and Chapter 8, Health and Public Safety, Section 8.8.3, Types of Nuisances, (s) Noise; creating unnecessary noise. (First Reading)**  
*Presented by Rusty Grant, Chief of Police*

*Councilmember Orlans introduced this item. City Attorney David Davidson conducted the first reading of an ORDINANCE TO AMEND CHAPTER 13, "OFFENSES AND MISCELLANEOUS PROVISIONS" AND CHAPTER 8, "HEALTH AND PUBLIC SAFETY" OF THE CODE OF ORDINANCES OF THE CITY OF*

ROSWELL stating: NOW, THEREFORE, the Mayor and Council of the City of Roswell, pursuant to their authority, do hereby adopt the following amendment:

1.

Chapter 13, Offenses and Miscellaneous Provisions, of the Code of Ordinances of the City of Roswell, Georgia is hereby amended by adding a new Section to Article 13.1, Offenses Involving Public Peace and Order to read as follows:

Section 13.1.13. - Noise control.

(a) Purpose. This section is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the City of Roswell through the control of noise. It is the intent of this section to establish standards that will reduce excessive community noises, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business.

(b) Sound measurement standards for law enforcement or code enforcement personnel. For the purposes of this section, "plainly audible" shall mean any sound emanating from the specific sound-producing sources set forth below which can be heard from the distances set forth below, using the following sound measurement standards: Measurement shall be by the auditory senses of a person standing at a distance no less than the required minimum distance from the source of the sound. For music and other noise, words and phrases need not be discernible. For music and other noise, bass reverberations are included.

(c) Prohibited conduct.

(1) Restrictions of 300 feet for 7:00 a.m. through 11:00 p.m. Sunday through Thursday and 7:00 a.m. through 12:00 midnight on Friday and Saturday.

a. Mechanical sound-making devices. It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.

b. Human-produced sounds. It is unlawful for any person or persons to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the place, building, structure, or in the case of real property, beyond the property limits, in which the person is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.

c. Commercial advertising. It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and

*between the hours of 7:00 a.m. and 12 midnight on Friday and Saturday.*

*d. Party noise. It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or social event to produce noise in such a manner that such noise is plainly audible at a distance of 300 feet or more from the building or structure from which the noise is emanating or in the case of real property, beyond the property limits, on which the party or social event is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12 midnight on Friday and Saturday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.*

*(2) Restrictions of 100 feet for 11:00 p.m. through 7 a.m. Sunday through Thursday and 12:00 midnight through 7:00 a.m. on Saturday and Sunday.*

*a. Mechanical sound-making devices. It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the building, structure, or motor vehicle or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.*

*b. Human-produced sound. It is unlawful for any person or persons to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the place on public streets and sidewalks, or in the case of private real property, beyond the property limits, on which the person is located, whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.*

*c. Commercial advertising. It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.*

*d. Party noise. It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise in such a manner so as to such noise is plainly audible at a distance of 100 feet or more from the building or structure from which the party noise is emanating or in the case of real property, beyond the property limits, on which the*

party or social event is located, whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.

(3) *Animal noise.* Owners and agents of owners of domesticated animals shall not permit any vocalizations (including, but limited to barking, howling, baying, and crying or other noise) for more than ten (10) continuous minutes without interruption or thirty (30) minutes if intermittent. Each offense or occurrence will result in a separate offense

(4) *Exemptions*

(a) Noise generated from municipally sponsored or approved celebrations and/or events shall be exempt from these provisions.

(b) The following are also exempt from this provisions:

(1) Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;

(2) Noise from a burglar alarm of any building, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is not intermittent or within ten (10) continuous minutes if the sound is intermittent;

(3) Noise from any automobile alarm, provided such alarm shall terminate its operation within five (5) continuous minutes of its activation if the sound is not intermittent or ten (10) continuous minutes if the sound is intermittent;

(4) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;

(5) Noise resulting from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances;

(6) Carillons, chimes or unamplified bells while being used in conjunction with religious services between the hours of 7:00 a.m. and 10:00 p.m.;

(7) Emergency work approved by the director of transportation, police chief, fire chief or the director of public works or the chief building inspector of the city;

(8) Surface carriers engaged in commerce by railroad;

(9) Organized sports league activity sponsored by a school or the City of Roswell that is otherwise in compliance with the Code of Ordinances of the City of Roswell, Georgia;

(10) Noise that results from landscaping and lawn maintenance between the hours of 7:00 a.m. and 7:00 p.m.;

(11) Noise that results from construction both private and commercial between the hours of 7:00 a.m. and 7:00 p.m.

## 2.

Chapter 8, Health and Public Safety, of the Code of Ordinances of the City of Roswell, Georgia is hereby amended by deleting current section 8.8.3(s) in its entirety and replacing it with a new Section 8.8.3(s) to read as follows:

### Section 8.8.3 Types of Nuisances.

(s) Noise. Making, continuing or causing to be made or continued acts which are done or accomplished or carried on in such a manner, or with such volume and

*intensity, or with continued duration so as to annoy, to distress, or to disturb the quiet, comfort, or repose of any person of reasonable nervous sensibilities within the vicinity or hearing thereof.*

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

*Police Chief Rusty Grant noted that this would be a discussion regarding the noise ordinance. He stated that he would like to clarify what "we are not here for." Chief Grant stated, "Roswell is already a city that has businesses and homes in close proximity to one another. People live in these homes because of our parks, our Public Safety, the close proximity to other cities that have attractions which Roswell doesn't have, our restaurants; the businesses to some are what Roswell is. Some would argue it is not just the fine restaurants that we have, but to many the fine restaurants that we have in Roswell is who we are. We are past the point of deciding do we want to have homes and businesses in close proximity to one another because we are already there." Chief Grant began referencing a Power Point presentation which he stated Mayor and Council had previously seen except for a few additions. Chief Grant discussed the number of complaints. He said there have been 977 noise complaints from January until March 2014. Referencing the graphic, he stated the line graph demonstrated that along with a breakdown of the different beats. He said there have been a number of complaints in the last year; in 2013, there were 865 complaints. As a result of that, 14 citations were issued for a noise ordinance violation. In 2014, through March 11, there have been 124 complaints, which resulted in 1 citation. Referencing a graphic, Chief Grant displayed the current enforced noise ordinance that everyone needs to comply with. He stated, "As you can see, in a residential area from 7:00 a.m. until 11:00 p.m., they can rise to a level of 70 decibels; measured from the property line; from 11:00 p.m. until 7:00 a.m. that is 60 decibels. In a commercial area from 7:00 a.m. until 11:00 p.m., it is 70 decibels; from 11:00 p.m. until 7:00 a.m. it is 65 decibels. In an industrial area at all times, it is 70 decibels."*

*Chief Grant noted that since he last addressed Council and the Restaurant Association regarding this ordinance, he contacted some neighboring cities to find out about their noise ordinance. He stated he contacted the City of Alpharetta. Referencing Alpharetta's noise ordinance on the overhead, he stated that it shows that in every category except Industrial, they are below the levels Roswell has; Alpharetta has the exact same times that Roswell includes in the noise ordinance, but their noise level by decibel are less than Roswell. Chief Grant stated Sandy Springs has an ordinance more similar to the proposed noise ordinance in that they do not use a decibel meter to measure their levels, they use the human ear to measure a violation; they measure from the property line. He noted that in his opinion, the Sandy Springs ordinance is not very well written. Chief Grant stated the City of Milton uses a sound meter to measure noise ordinance violations. He noted that the City of Milton said they have very few noise complaints and could not really provide any antidotal evidence either way as to how their noise ordinance works; the City of Milton is much more rural and not really very similar to the City of Roswell. Chief Grant referred to the City of Greenville ordinance displayed overhead, and stated that they basically have a central business district which is different than what the City of Roswell does, but they do use a sound meter and measure noise by a decibel level. He noted that the graphic from the City of Greenville showed that at times it is higher than the City of Roswell but it is a more defined central business district than here.*

*Chief Grant said the City of Roswell proposed noise ordinance, which is the Athens-Clarke County model, is one that has been Georgia Supreme Court tested, is that from Sunday to Thursday, from 7:00 a.m. until 11:00 p.m. it is measured 300 feet from the sound of the noise, or from the property line, whichever is further; Friday*



*from Saturday it is from 7:00 a.m. until midnight it is 300 feet; Sunday from Thursday from 11:00 p.m. through 7:00 a.m. it drops to 100 feet; Friday to Saturday at midnight to 7:00 a.m. it drops 100 feet.*

*Chief Grant referred to a map which included the restaurant Pastis on Canton Street, since it is a street they are most familiar; the map showed a distance of 300 feet radius. He described the 300 feet radius area shown on the map would be from the center of the inner circle to the edge of the yellow circle; from the center circle to the red circle that would be 100 feet.*

*Chief Grant referred to a radius map using Pure restaurant as the center of the radius. He stated this is actually measured from the center of the restaurant; the actual measurement will be from the source of the sound. Chief Grant said, "On Pure that usually comes more so from the front of the restaurant. This measurement is from the center of the business as opposed to the source of the sound, so this map would actually be shifted more toward the 11 o'clock direction, give them more of an area in that direction as opposed to the 4 or 5 o'clock direction."*

*Chief Grant referred to a radius map using Nine Street Kitchen as the center of the radius; the same measurements.*

*Chief Grant referred to an overlap map of the proposed noise boundaries; it showed the different restaurants in this community. It is an overlap of not necessarily of the sound, but of the overlap of the different distances and where they relate to one another.*

*Chief Grant referred to a map with pinned locations in the City to provide examples of distance, without actually going out to the location with a small amount spray paint and placing a dot on the pavement or on the edge of the bricks to indicate the different distances; if someone wanted to go out and actually listen to the sound. He said the source of the sound was not known at the time these measurements were taken, on a laser detector like that used to measure speed; there is a distance indicator included, using that laser, Chief Grant said he measured out 100 feet and 300 feet, bouncing it off basically the buildings. He said, "Whatever distance you would see, you would probably add maybe ten feet away from the actual business to give them the benefit of the doubt, but it really would just depend on where the music was coming from, if music is what we were listening to." He referred to the distance measurement for Nine Street, he did not want to stand out in the middle of the street; 285' is basically to the edge of the street from the edge of the Nine Street building. Chief Grant referred to a map with pinned measurement locations for Pure; he noted that the actual measurement was taken with a laser bounced off a car that was sitting at the edge of the sidewalk; the 300 feet is actually further out that it would actually be.*

*Chief Grant said, "As I look at this noise ordinance, I don't consider this to be a perfect noise ordinance. It is something that has been Supreme Court tested here in Georgia but there are some different areas that we can look at. I have talked with Mr. Davidson and asked his opinion that if we were to start changing this ordinance is that going to vastly impact the constitutionality of the ordinance. He can speak on that further but basically he said it would not as long we are tweaking it, there are some changes that we can make and it could still pass that test, although, the ordinance as it exists has been tested. The issues to decide as I see them, is using a sound meter to measure the sound in decibels versus using the human ear; the days of the week; the time of the day or night; the distances or something that we can look at creating an entertainment or business district, but the downside to that is that in many cases the homes are so close and many times share property lines, so that*

may be difficult to do; apartment noise; bass sounds is something that we receive a lot of complaints; animal noise; and exemptions to the noise ordinance that is decided to pass, should you decide to change the current ordinance." Chief Grant noted there have been a lot of complaints from all over the City which brought about this discussion of the noise ordinance.

Mayor Wood asked Chief Grant to walk through the process of an officer enforcing the noise ordinance, if he receives a complaint; how would the officer decide to issue a citation or not.

Chief Grant replied, "Assuming he had a complaint, he would go out, meet with the complainant, listen to their story and hear the noise himself." Mayor Wood asked if the officer would need to hear the noise to issue the citation. Chief Grant stated with the current ordinance, the sound meter would need to hear the noise; under the new ordinance the officer would hear the sound and determine if it is too loud. Mayor Wood asked what hours that would apply. Chief Grant replied, "300 feet would be Sunday through Thursday, 7:00 a.m. until 11:00 p.m., and Friday through Saturday, 7:00 a.m. until midnight." Mayor Wood replied, "Before 11:00 if he received a complaint and he was 300 feet away from the subject that was being complained and he could hear it distinctly enough to say that sound is coming from there, then he would issue a citation." Chief Grant stated the officer could; just like at this time if the reading were such on the decibel meter that it was above the limit, he could do that. Mayor Wood replied, "What would the policy of the Police Department be if we passed this." Chief Grant answered, "It would be just like it is now. It would be up to the officer." Mayor Wood replied, "The officer, but the law would say if he can hear it 300 feet away then he has probable cause to issue a citation." Chief Grant stated that is correct; just like if the officer's radar said 80 mph he could write that citation. Mayor Wood noted that the officer could either give a warning or issue a citation. Chief Grant replied, "What you will hear later is that in the vast majority of the instances, people are told to turn down their music. They are not issued citations." Mayor Wood asked if the vast majority of the complaints are in apartment complexes. Chief Grant said that is true, by the number. Mayor Wood requested that Chief Grant go back to that in his Power Point slide presentation because he had gone past that slide. Chief Grant replied that particular slide did not have a breakdown of specifically apartments. Mayor Wood said he understood, but the zones in which there were the biggest amounts were C-1 and C-2, and so he asked to go back to it to show where those two were. Chief Grant displayed the slide. Mayor Wood noted C-2 would include the apartments along Holcomb Bridge Road. Chief Grant referring to the slide noted where Holcomb Bridge Road is located. Mayor Wood said C-1 would include some of old Roswell. Chief Grant stated that was correct.

*Council questions:*

Councilmember Dippolito asked, since a number of these complaints come from the apartment complexes, if there is a way to work within the City's Crime Free Housing Initiative to encourage the apartment complex owners to get involved as well. Chief Grant replied that the Police Department could look into doing that. Most of the time when these calls are received into apartment complexes, by the time the Police get there the noise is no longer occurring. Chief Grant stated the Police Department is looking at trying to reduce the number of non-emergency calls that the Police have, or lower those number of calls; that would be in line whether it is an alarm call or a noise complaint. Councilmember Dippolito replied, "I think if we could educate the property managers as to the new ordinance, should it be passed, then they might be able to police it themselves and help out a little bit to reduce the number of calls." Chief Grant replied that most apartment complexes also have a "courtesy officer" who is a police officer that lives in that complex; many times they get the calls before the Police Department receives the call which also helps reduce the number of calls. No further discussion.

*Motion: Councilmember Orlans moved for Approval of an amendment to the City of Roswell Code of Ordinances, Chapter 13, Offenses and Miscellaneous Provisions, Section 13.1.13, Noise Control and Chapter 8, Health and Public Safety, Section 8.8.3, Types of Nuisances, (s) Noise; creating unnecessary noise. (First Reading) Councilmember Diamond seconded.*

*Public comment:*

*Doug Curling, representing New Kent Capitol, stated they owns a number of commercial properties in Roswell; three of their properties are located on Canton Street and occupied by restaurants. Mr. Curling said he did not really have a comment on the residential side of this. He noted that he could not tell that is "that big a problem" since only 15 citations were issued. From a business perspective this is a very sensitive topic for his organization. Mr. Curling said "I personally am against any subjected metric; I think we ought to have an objective metric. I think businesses are used to being regulated but we are regulated with a bright line. We prefer a definitive ordinance that is measured by some kind of device that we can comply with."*

*Joseph McFadden, Pure Taqueria Director of Operations, thanked Mayor and Council for the opportunity to address them. He also thanked Chief Grant for "giving us some time last week to really get to know this ordinance." Mr. McFadden said Roswell is all about balancing regulations between encouraging economic vitality, protecting and promoting healthy neighborhoods. He noted that Pure is very proud to be in Roswell, is very proud of the support Pure has received from the community, and wants to give that back by bringing pride to the community and be a part of the great things happening in Roswell. He said, "We understand the restaurants and bars much be subject to regulation. We welcome that. We want to be a safe place that everybody can go and have fun; however, we can't support the adoption of the proposal as written specifically because the ordinance is taken verbatim from the Athens Clarke County ordinance as written but it omits two important exceptions. One of them is an exception given to businesses for noise created in the normal accordance of business. That is not included but is in the Athens Clarke County Code of Ordinance right now, and residents cannot make a noise complaint against businesses that have an adjoining property line with the residence." He said those exceptions should be included going forward. He stated the Georgia Supreme Court did test this ordinance; the violator in this case was a college student who was playing with his garage band in a house in the middle of a neighborhood; it survived the challenge based on the fact that he did not get a warning. Mr. McFadden noted that in Athens Clarke County the one dominant industry is the University of Georgia, which "all the laws and ordinances are based to support that." He said Roswell has a very different economic base and, "Any ordinance that supports the mission statement of the City of Roswell has to be written for that variety that was mentioned before." He suggested that "Any ordinance written should have a special section for restaurants, and that should include at least a minimum 300 feet and 1,000 feet." If the ordinance goes with 100 feet, as written, then people could make a noise complaint from the back of the Pure parking lot, even though the proposed ordinance contains language that says the measurement could start from their property line. He said they also believe that using the audible level is important; the officer should be able to hear something but it should be followed up with a measurable reading from the source. Mr. McFadden said, "That is very important to us, if the restaurant, bar, or business is being accused of violating the ordinance, we would like something tangible that shows exactly where the line has been crossed and by what degree." Mr. McFadden said Roswell is one of the leading communities in the southeast; more*

time is needed to research and craft a solution "that doesn't punish safe, healthy, job creating businesses." He stated sound is not noise; sound is measurable, and noise is a divisive subjective term. Mr. McFadden said, "If a citizen clears trees from their back yard the business held responsible for allowing sound to go into their yard even though the citizen cleared the trees on their property. The way sound travels is based on all kinds of environmental factors none of which can be controlled by any group or individual even though they might be impacted." Mr. McFadden said this ordinance is a starting point and could be better.

Vivian Benson, 209 Prospect Street, stated she has lived in Roswell for 38 years. Ms. Benson said, "My street runs parallel to Highway 9, so my back yard looks directly into Pure's roof. Just the fact that they are on top of the roof; it that was enclosed it would really help. It is louder in my yard, I have measured it myself. It is louder in my yard that it is at Pure; I think it is just the fact that I am on a hill. Even without the music, I can hear conversations and what people are saying in my yard. It is like having a crowd of people in my back yard." Ms. Benson noted her conversation with Pure last year and stated, "I think they said they open up the roof maybe from Wednesday to Saturday or Sunday. If it is a pretty day, Pure is on the roof. They play it soft for a while, and then they crank it up." She noted that her sister has a terminal illness and lives with her at times. Ms. Benson said, "I am all for businesses and tax dollars, I love Roswell. I love the fact that it has grown." She expressed concern that some businesses are "bars that serve food." She expressed concern about "drugs and other things at bars"; future dense population in the area and bars that can be walked to. Ms. Benson said, "I think Roswell is becoming a strip like Buford Highway, Sandy Springs, and Buckhead. The Buckhead Coalition came in and cleaned all that out unfortunately after a few murders." She stated bars do not go away once they receive a liquor license.

Mayor Wood stated he understood her opinion on bars but that it would be helpful to discuss the sound ordinance tonight; Council was not discussing the restaurant industry but the sound ordinance at this time. Ms. Benson responded, "They are loud. I am so glad that the Police Department has taken over this and I hope that they can do something about it. That has been a real relief."

Jeffrey B. Bradley, 185 Kings Mill Court, stated he distributed to Council a handout in support for the Amendment to Chapter 13 related to reducing excessive community noises. Referring to this handout, Mr. Bradley stated that as a resident of Roswell, his quality of life is adversely affected by the increasing late night music noise from the Canton Street area, including Alpharetta Street. Mr. Bradley stated he and his neighbors support the new ordinance. He said the most important issue is the standard of measurement which in his opinion, the standard should become "plainly audible" as the police chief has proposed. Mr. Bradley said the plainly audible standard has been held to be valid all throughout the United States in numerous cities, towns, and counties. Mr. Bradley referring to his handout regarding the plainly audible standard versus the measurement of sound, stated many communities have determined that the measurement of sound by meters does not work. He said that in the Roswell community, it is not working. He noted a shortened list of cities and counties with the plainly audible standard: Cambridge, Massachusetts; Jewett, Greene County, New York; Gainesville, Florida; Valdosta, Georgia; Athens, Georgia; and Nashville, Tennessee; he noted there are more cities than this. Mr. Bradley said the current ordinance in Roswell is not working; plainly audible needs to be the standard; extreme noises are being generated by music from certain restaurants with no reasonable time of night constraints. The extreme noise is negatively affecting the people who live on the Vickery Creek side of Kings Mill Court as the noise travels up Vickery Creek into all of those homes.

*Lilot Moorman, 185 Kings Mill Court, asked all those present who had been adversely affected as recently as this past Saturday night to stand up in the audience. Ms. Moorman stated those in her neighborhood live much further than 300 feet from the Canton Street restaurant area but they get the sound and especially the percussive sound until well beyond midnight and into the early morning hours. Ms. Moorman said, "If the restaurants say that they cannot survive without inflicting this kind of abuse to the citizens of the surrounding area, you know that is nonsense and they know that is nonsense. Part of the mission of this noise ordinance is to protect the quality of life of the citizens of the community. We are those citizens."*

*Randy Schultz, 505 Canton Walk, in Providence, stated he supports the changes. Mr. Schultz said the current decibel reading methodology is not adequate. He explained that he and others in his neighborhood have experienced it firsthand in that the police will be called on a noise complaint; they will use the decibel meter, however in their homes, it is possible to clearly hear the music. It can be heard over a television and any music that one maybe playing inside their home. Mr. Schultz stated, "I think that audible is a good way to go because it is much easier to hear from an audible perspective. From an investment perspective, I understand that restaurants and other owners have invested quite a bit of money and I respect that. However, in our community, we have invested over twenty million dollars in our neighborhood, and we are not in an apartment complex, just to be clear. We have invested quite a bit of our funds in trying to make Roswell a better place to live. We want to be able to sit in our homes, have conversations at night and weekends without having to listen to music coming from restaurants and bars. This does not have to be a lose-lose situation for anyone. There are currently bars and restaurants that play music and I will give you two examples: NOCA; Provisions, in their upstairs club. The main difference is that they play their music inside. There is a way you can play music, generate revenue for your establishment but it needs to take into account of all the stakeholders that are subjected to that business operation. For the residents that live along Canton Street, there are approximately 70 of us back there, this is a big concern. We support the change to the new code."*

*Aaron Saldana, 225 Kings Mill Court, stated he and his wife have two young children, 2 years old and four years old. Mr. Saldana said that just as the other members of the Kings Mill Community have mentioned, even though we are very far from Canton Street, we can still hear the music and have heard it into the "wee hours" of the night. He said he supports the new ordinance.*

*Rick Clark, 982 Canton Street, representing Nine Street Kitchen, stated he agrees with Mr. Curling. Mr. Clark said, "The subjective nature of plain audible, there is no way to go there. You can't just let someone's discretion decide. I agree that if an officer arrives and decides that it is loud enough to measure, then let the officer measure at that point." He asked if everyone is aware of what decibel level certain things are, for example a car horn, a pleasant conversation. He said, "Your 70 decibel level is a regular conversation, what you are having right now, which means that Mr. Schultz would not be able to have a conversation on his porch that they have spent a great deal of money on, I agree, without other people hearing it and being in violation of the noise ordinance. On the way here, a phone ringing on the front steps is in violation of the noise ordinance as written here, at any time of day or night, because it is over 300 feet, plainly audible." He suggested that another method be found. Mr. Clark said, "The sound meters that you are currently using, is that an 'A' or 'C' weighting that you are using to measure those sounds."*

*Mayor Wood asked for an explanation of differences. Chief Grant stated, "There is an 'A' weighting or a 'C' weighting. 'C' weightings are the bass reverberations that you would hear. The 'A' weightings would be those other sounds other than the*

bass. Other current ordinance does not measure the 'C' measurement at all."

Mr. Clark said, "The 'C' weighting is not even factored in, in either one of the ordinances; the constant drumming which is what really drives people crazy. If you could factor that in, get a reasonable measurement on that; virtually all the sound meters have the ability to measure 'A' and 'C.'" Mr. Clark noted that Charlottesville, Virginia is having the same kind of a problem measuring 'C.' Percussion and bass is a big problem. Mr. Clark said, "Moving on, we have multiple things that you are going to knock out in Roswell; weddings; potentially 300 feet. Would Council please go out in the parking lot and talk to each other across the parking lot and see if you can hear it. When you get to 300 feet at any time of day or night, you are in violation." He asked if the measurement for the noise ordinance is on the receiving property, not the emanating line.

Mayor Wood replied, "It is measured from the property line of the receiving property." Mr. Clark interrupted Mayor Wood stating, "Where is it being received. On the screen it said from the emanating, which would be the source of it. I agree with that but that is not the current noise ordinance. So, at this point, that was inaccurate there, so it is actually the receiving property. It said emanating on the screen so I was just trying to make that distinction, if possible." Mayor Wood replied, "I understand it is receiving." Mayor Wood asked City Attorney David Davidson to clarify to make sure he had not misstated it. Mr. Davidson replied, "It says that all noise measurements shall be made at or within the property line of the impacted site." Mayor Wood clarified that impacted would be the receiving property. Mr. Clark said that correction would help. He said if it could be established what a reasonable amount of sound is from the emanating property then that should be a reasonable amount of sound at any other receiving property. Sound travels and nothing can be done about that. Mr. Clark said a lot of things change if the City adopts an ordinance that is subjective to this.

Janet Schneider, 205 Kings Mill Court, stated she lives over one half mile from Canton Street and is affected by the sound because it is so loud. She noted that she had to close windows and is not able to turn up the television loud enough to block it. Ms. Schneider said, "We are not talking about a reasonable amount of sound coming from a restaurant, we are talking about blaring music that goes on past 2:00 a.m. This is every weekend, Thursday night, Friday night, Saturday night and Sunday. She said it is fun to be in Roswell. It is fun to have all of this around but it doesn't have to go on forever at that kind of volume. I don't think they should close, and yes people like to party, but they don't have to blare it at that kind of level."

Betty Dickey, 98 Sloan Street, said "I think it is just the difference between hearing it at 11:00 p.m. and at 1:00 or 2:00 a.m. Maybe they should just change to mood music, lighter. I don't think anyone wants to change Roswell, and the entertainment and what we have now. It is just toning it down."

No further public comments were made.

**Council comments:**

Councilmember Orlans encouraged Council members to get out with Chief Grant to stake out 100 foot and 300 foot lines, to help determine their own thoughts about the different sounds heard, and if possible, at different times such as 11:00 p.m., 12:00 a.m., and 1:00 a.m.

Mayor Wood said Ms. Dickey had made a good point in that what is acceptable at 1:00 a.m. is different than what is acceptable at 10:00 p.m. The Mayor said he was not certain that the hours of operation had been sufficiently considered. He said his observation of Roswell at midnight is that it "is dead" and is quiet, but noted that he

did not live close enough to hear it like those who had come to the meeting to speak about the sound. Mayor Wood said Roswell does not have the Buckhead crowd that stays up till 4:00 a.m., and that he would never want to see that in Roswell. He noted that the City needs to find a solution for everyone so that residents and restaurants can coexist.

Councilmember Diamond said, "As often happens in these, we start to get down in the weeds of the detail of how we could make it perfect. I don't think in this kind of thing you can ever solve all these issues. I think if you read the purpose of it, the standards are meant to reduce excessive community noises which are harmful and otherwise detrimental. That is really the standard. It is not if you are annoyed by the person on the deck next to you, that you call the police. That traditionally has not been an issue but when you have a consistent, chronic issue and the King's Mill folks have certainly had that, I think some of that is an anomaly like we have seen with Verizon where at just certain times, noise travels in such an odd way. You guys are so far from it and people in between you are not hearing it like you are hearing it. I am not sure how we truly ever address that." Councilmember Diamond said the first reading is great first start; it has been tried in other places; Greenville has struggled with the combination of business and people living there. The urbanization that Roswell has is still new here; the City can benefit from the experience of other cities. Councilmember Diamond said she was comfortable moving forward to the second reading.

Councilmember Dippolito said he agreed with Councilmember Diamond. The goal of the ordinance is to create a win-win; it is not to punish the businesses but to make sure that we have a good quality of life for our residents. There is some middle ground which can be achieved. He noted that he had visited Athens recently and it seems to be thriving; Athens also has this ordinance. Councilmember Dippolito said, "As burdensome as this may sound to the business community or at least certain members of the business community, I think our officers are very reasonable. I think we can move forward on this ordinance, make this a situation that is viable for both our residents and businesses because that is the goal. If we find that we are having continued issues, we will continue to take a look at it. That is something Roswell does very well. We have a noise ordinance now that is not working. We all acknowledge that and we are coming up with something and we are going to try that. Hopefully, between now and the next reading with whatever changes we make, this will get us to where we need to be."

Mayor Wood asked City Attorney David Davidson if "plainly audible" meant that "you would have to be able to distinguish what people were saying or just you could say there was a noise emanating." The Mayor said that where he lives he is able to hear Roswell High School playing football games. He stated that he knew that the school is exempt but they are two miles away. Mr. Davidson replied, "We actually have that defined in the ordinance. It says it shall mean any sound emanating from a specific sound producing sources as set forth below which can be heard from the distances set forth below, which is the 300 and 100 feet, using the following sound measurement standards. Measurements shall be by the auditory senses of a person standing at a distance no less than the required minimum distance from the source of the sound. For music and other noise, words and phrases need not be discernable. For music and other noise, bass reverberations are included."

Mayor Wood said, "I guess my question would be if Roswell High was not exempt, could I file a complaint against Roswell High two miles away on the certain nights when the wind is right and the cloud cover is right?" Mr. Davidson replied yes, under the proposed ordinance it could be done.

*There were inaudible comments made. Mayor Wood asked what the question was.*

*Councilmember Diamond asked if that could be done now.*

*Mayor Wood replied, "I know that Roswell High is exempt but I am concerned with the way noise carries. It doesn't bother me; it is a football game, it is high school. I am just using that as an example. Noise carries strangely sometimes."*

*Councilmember Wynn stated she understood Mayor Wood's comments. She said, "I think what I am hearing from our residents is that it is not so much the noise but the time. Ten o'clock at night is fine. I think it is more the time that I am hearing; one, two o'clock in the morning, four and five days a week. That is what I am hearing. It is not so much all the noise certain times of the day. It is when it goes on and on and on and they are trying to put the 2 year old and 4 year old to bed, and everybody else is trying to get to bed."*

*Mayor Wood said, "My concern was that 300 feet, if there is nothing between you and that structure, before 11:00 p.m. My voice carries. I think we need a lot more looking at this because we all need to get along with each other. I think both sides make good points. I am troubled by how we resolve this. I am not sure how we do it. I just know that 300 feet before 11:00, I am not sure. After 11:00 it is a different world, before 11:00, I am concerned about."*

*Mayor Wood asked for further Council comments.*

*Councilmember Price said she thought she would work a few things through before the next reading.*

*No further Council discussion.*

**A motion was made by Council Member Orlans, seconded by Council Member Diamond, that this Item be Approved on First Reading and placed on the Mayor and City Council agenda for 4/14/2014. The motion carried by the following vote:**

**In Favor: 6**

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

#### **9. Recommendation for closure to discuss personnel, litigation and real estate.**

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

**In Favor: 6**

**Adjournment - 8:55 p.m.**