

Public Comments:

Janet Russell, 260 Willow Springs Drive, asked what this would connect to and whether it would connect to Highway 9 running north.

- 6. Approval for the Mayor and/or City Administrator to sign contracts for MARTA Offset Project - Sidewalk Gap Closure Batches #3, #4, and #5 with Clark Patterson Lee in the amount of \$55,955, Gresham Smith & Partners in the amount of \$59,715, and Mulkey Engineers & Consultants in the amount of \$50,180.35.**

Councilmember Dippolito introduced this item. Director of Transportation Steve Acenbrak said the City is still working through the MARTA Offset Funds program and sufficiently along with the other projects and in a good position to release this next batch. He noted that areas that meet the MARTA eligibility throughout the city have been targeted; a graphic was showing indicating the three batch areas. Batch #3 is on Hembree Road. Batch #4 is divided into three sub components; a section at Old Roswell Road, two by Canton Street and SR9, and Norcross Street. Batch #5 is off Pine Grove Road. Hembree Road is the long awaited project to connect Hembree Grove with the two schools and the parks. There will be a multi-use trail. Batch #3 is where Old Roswell and Commerce Parkway join. A stretch of sidewalk where there is no sidewalk connection will be fixed. Mr. Acenbrak stated the sidewalk and crosswalks from City Hall to the south portion of Canton Street will be cleaned up to make it easier for pedestrians to cross from the parking area at City Hall to the shops and restaurants on Canton Street. Sidewalks will be placed where the Diesel Pizza restaurant is located at the corner of SR9 and Norcross Street. He noted there is a sidewalk gap along Pine Grove Road from Magnolia down Pine Grove to the area of the curve. Mr. Acenbrak stated Transportation staff believes these are good fees based on the Davis-Bacon Act and the other rules and regulations followed for procurement.

Mayor Wood noted that it is his understanding that this is MARTA Offset money, which requires that it be spent on something that helps people walk or ride buses. Mr. Acenbrak replied that was correct; it has to support the connectivity to the MARTA program. MARTA has reviewed and approved all of these projects as falling within their guidelines.

Council Comments:

Councilmember Price noted there have been concerns expressed about putting a sidewalk on the outer side of a curve where people are driving rapidly. She said "I did go and look at that and I kind of agreed. I think Nancy Diamond mentioned that at Committee meeting." Councilmember Price asked if there would still be a guardrail. Mr. Acenbrak replied that the entire geometry of the intersection would be considered; the design team will recommend changes to make that safer for pedestrians. Councilmember Price replied "I know we discussed the road down by the river saying that we couldn't move that guardrail, that was a straightaway, this is a nasty curve." Mr. Acenbrak agreed that it is a nasty curve that the design team plans to survey, look at the area, and make recommendations to make that pedestrian connection and fix the problem. Councilmember Price asked if there are any other locations as alternatives, if this one is not done. Mr. Acenbrak replied yes, but he was confident this could be solved.

No further Council comments or questions.

Motion: Councilmember Dippolito moved for Approval for the Mayor and/or City Administrator to sign contracts for MARTA Offset Project - Sidewalk Gap Closure Batches #3, #4, and #5 with Clark Patterson Lee in the amount of \$55,955, Gresham Smith & Partners in the amount of \$59,715, and Mulkey Engineers & Consultants in the amount of \$50,180.35. Councilmember Wynn seconded the motion. The motion passed unanimously.

Community Development – Councilmember Betty Price

- 7. CU11-02, Fellowship Christian Schools, Inc., 10965 Woodstock Road.
(Applicant is requesting deferral to June 13, 2011).**

Councilmember Price introduced the item. Planning and Zoning Director Brad Townsend explained that this is a conditional approval requesting changes to the 2007 approved conditional use. An aerial photograph of the

subject property showed the recent development of the property, the main building in the center that houses the high school and elementary school and the adjoining football, baseball, softball, tennis athletic fields. A bare area in the center is for a future high school building and future parking lot. Residential homes surround the property. The parking lot to the north is jointly used by the school and the Fellowship Bible Church.

Mr. Townsend reviewed the conditions from the 2007 approval for Fellowship Christian School that the applicant has asked be removed. *(These conditions are shown below with the approved numbers from the 2007 Mayor and City Council approval.)*

1. The owner/developer shall develop the property in accordance with the site plan prepared by Paulson Mitchell, Incorporated containing five (5) sheets received on May 25, 2007 City of Roswell Community Development Department, or as approved by the Roswell Design Review Board and consistent with these conditions. (The applicant would like to lift the restriction on this condition regarding the lights and public address system on the football field. The applicant would like approval for a 1500 seat stadium and press box on the home side and portable bleachers on the visitor's side of the football field. The site plan from 2007 did not show these items.)
15. There shall be no lighting on the baseball field, softball field, basketball courts, and tennis courts located near the Barrington Manor Subdivision.
16. There shall be no public address system used at the baseball and softball fields and tennis courts.
29. There shall be no marching bands, either from Fellowship Christian School or the visiting school, during outdoor athletic events.
30. There shall be no outdoor concerts on the property.

Mr. Townsend stated he received a letter from Mr. Rolader stating the applicant requested deferral to the June 13, 2011 Mayor and Council meeting, the next standard Mayor and Council meeting to deal with most zoning issues. It is within Council's discretion as to whether they feel deferral is appropriate or not. Mr. Townsend noted that staff had no other condition or discussion at this time.

Applicant:

Donald Rolader, 11660 Alpharetta Highway, Suite 630, Roswell, stated he represented the applicant. Mr. Rolader said approximately ten days ago they were for the first time, made aware that there were collateral issues not involving the key issues to this request that were of concern to members of the Council and members of the community. Subsequent to that we have been provided with some good information by Mr. Townsend. The applicant received some supplemental information by the engineering staff and supplemental information by the arborist. Mr. Rolader stated he asked to receive a consolidated list to deal with and address these problems and so that the City Council, in making its decision on this issue, has everything on the table and understands fully all the moving parts that are involved; as of this evening, he did not have a consolidated list. He stated regardless of whether such a list is received, or not, the applicant is prepared to address these issues with the professional staff, with the engineering staff and the arborist. He was concerned that both Council and the applicant having fair consideration of this matter. Mr. Rolader noted the applicant requested deferral until the June 13, 2011 Mayor and Council meeting. He has learned, subsequent to that request, of possible tight time constraint for other people involved and perhaps a deferral to the July 11, 2011 meeting would be more beneficial; it still would be within the 65-day parameter the City has in which to consider a zoning application. Mr. Rolader noted that the applicant has no objection to that later date if the Council finds it better, but did not feel they could reasonably address this and reasonably respond to this and give you the information you need if we charge ahead tonight with this on the table. Mr. Rolader offered to answer any questions Council may have but his request was for deferral.

Mayor Wood asked staff how close they are to having this consolidated list of these issues that are unresolved that should be resolved perhaps by construction or interpretation. Mr. Townsend replied "Days, weeks."

Mayor Wood clarified that Fellowship is asking for a list of everything, that needs to be cleaned up, which is days or weeks away, but then there may be some additional work that needs to be done to tie up these loose strings whether it is construction work or submitting plans. Mr. Townsend agreed. The Mayor asked Mr. Townsend if that could be accomplished by June 13 or July 11. Mr. Townsend replied "Because the nature of the issues deals

with landscaping, the majority of the landscaping that hasn't been placed on the property according to the approved plans, staff would prefer that it be planted during the planting season, which is usually in the winter timeframe. There is no way for them to place all the landscaping needed within the 60 days of this request. Staff wouldn't want it placed there because it will probably die through the heat of the summer. Some of the outstanding things that need to take place reasonably cannot or shouldn't even take place in that timeframe."

Mayor Wood clarified that it sounds like staff wants to defer it even further; he asked Mr. Rolader for his response. Mr. Rolader replied that he concurred with Mr. Townsend in that it would be futile or wasteful to make certain landscape plantings prior to the planting season. Secondly, if they could get what is defined and agreed upon as to what is right and what is wrong and what has to be fixed, the applicant would want to do that right away for the benefit of everyone concerned. If that could be done between now and July 11, they could make a reasonable decision as to whether we can achieve some result that everybody can or cannot tolerate. If it cannot be done by that date the applicant would deal with it in another manner, but they need to make progress. Mayor Wood asked if the applicant was requesting deferral for June 13 or July 11. Mr. Rolader replied they would request deferral until the July 11, 2011 Mayor and Council meeting, for the benefit of all concerned.

Council Comments:

Councilmember Dippolito asked Mr. Townsend to go over the current list of the issues that are unresolved. Mr. Townsend displayed the approved landscaping plan noting the locations where trees either were not planted or died, and a listing that had been previously provided to Mr. Rolader and his representatives, that included 22 dead trees, 55 missing, over 1100 shrubs and groundcover. Mr. Townsend also displayed a listing of 10 drainage and grading problems for the site, which had also been provided to the applicant; these drainage and grading problems relate to stabilizing a bare area and removing the driveway no longer used for the house; the erosion issues include an area located behind the baseball field where was to be stabilized and seeded, but at this time is mostly bare dirt. Mr. Townsend displayed and reviewed the original 30 conditions placed on the applicant June 11, 2007, noting conditions the applicant has requested be removed, conditions which the applicant is in compliance with, conditions the applicant is in non-compliance with, and conditions still in progress.

Councilmember Dippolito asked what it will take for the applicant to bring those conditions into compliance, that they have not complied with. Mr. Townsend replied the applicant would need to complete the two lists shown earlier; most of the issues necessary to come into compliance are related to landscaping or drainage and the Transportation department requires an internal routing plan that needed to be placed. Councilmember Dippolito stated it was his understanding that the Transportation items are still outstanding and being discussed as to whether they are needed. Mr. Townsend replied "One of the items we are still discussing dealing with Transportation and it is specifically related to the right turn lane on Crossville dealing with the deceleration lane. Item #8 was waved at the time by Transportation and is being looked at in more detail, related to the requirement. That is one of the outstanding things we are looking at to finalize for the applicant." Councilmember Dippolito asked how soon staff would have that answer for the applicant. Director of Transportation Steve Acenbrak stated staff would have the answer certainly before July 11. Mr. Townsend stated that in discussions this afternoon it was determined that the deferral to July 11 would be enough time to contact GDOT and as well as our department, to get recommendations to make a determination. Councilmember Dippolito asked if the delay was caused in part by having to coordinate with GDOT. Mr. Acenbrak and Mr. Townsend both replied that was correct. Councilmember Dippolito asked if those were all the conditions. Mr. Townsend replied those were all of the conditions.

Councilmember Dippolito replied that it is quite an expansive list that seems insurmountable, maybe even by July. He noted that Mr. Rolader had mentioned that he had just heard ten days ago, or that the applicant was just told ten days ago that these things were outstanding, and asked if that was true. Mr. Townsend replied "To my knowledge, Mr. Rolader's representation has known this for the last five years when they were approved in 2006." Mr. Townsend confirmed that these conditions have been outstanding for five years.

Mayor Wood asked the applicant for a response.

Applicant:

Mr. Rolader stated he received the original list of conditions and other comments, once Mr. Townsend and he discussed this within the last 10-day to 2-week period. Mr. Rolader stated that to his knowledge, Fellowship Christian School has not within the five-year period, received a citation for zoning violation unless there has been one within the last few days. He said there have been multiple discussions onsite with numerous people, job classifications have changed, new people came into the City, old people left, agreements being made; and in all fairness to both sides, not all those agreements were documented. He said there was an agreement among the parties that an area of a clump of trees would be the batting cage location, so that clump of trees was moved, but that is not reflected anywhere. Mr. Rolader stated the City assisted the applicant in redesigning the detention pond in left centerfield of the baseball field; the result of that was a deeper pond and a steeper slope that makes it impossible to sustain tree plantings on that slope. He said his goal would be for both sides to meet, perhaps with City Council people who would like to sit in on it and listen, and decide precisely the true issues and conditions. He suggested that Transportation staff and Engineering staff meet with the applicant's construction leader and the Fellowship School Headmaster. Mr. Rolader stated "The frustrating part to me is all of those issues are collateral to the issue at hand which is are they entitled to relief from these conditions that give them a different set of rules than the other high schools in the area. That is the key issue and we are not even addressing it in dealing with this. My impression has been that I cannot address the key issues and neither can my client until the City has a satisfaction level with the collateral issues. My goal has been to address the collateral issues and see if we can get them in a box and then let you make a decision on the primary issue, which is whether they are entitled to the relief or not."

Mayor Wood asked Mr. Davidson what the rule about is deferral and how long it could be. City Attorney David Davidson stated the Council would have had 65 days; the July timeframe would be the last possible date. The Mayor clarified that Council could either make a decision to hear the issue tonight or defer the issue, but the deferral could not be past the July date. Mr. Davidson stated that was correct.

Council Comments:

Councilmember Price asked, from a perspective of the timeframe being dealt with, would this discussion of this item today be considered a public hearing and whether the clock starts here or in July, should it be deferred. Mr. Davidson replied the clock starts today. She asked if determination of some sort would be made in July. Mr. Davidson replied that was correct.

Councilmember Diamond said she expected that Council would be asking many questions that would not necessarily have answers tonight.

Mayor Wood commented that he was trying to get a sense of where this Council was going with item because Council needed to decide whether to hear it tonight or defer it.

Councilmember Dippolito stated condition #1 includes a request for a 1500-seat stadium and press box but he was not aware of a site plan showing that. He asked if the applicant was in compliance with the submittal requirements for the Conditional Use based on that request. The other request is for the lifting of conditions.

Motion: Councilmember Price moved to defer CU11-02, Fellowship Christian Schools, Inc., 10965 Woodstock Road until July 11, 2011. Councilmember Igleheart seconded the motion.

Council Comments:

Councilmember Orlans said "I think everyone in the room knows I have some involvement in Fellowship because I've been hearing it from everybody. Originally, I was expecting a deferral hearing tonight which I guess we are getting into now, which normally we've always approved. With a deferral to June 13, for which I was going to be on vacation and out of town, I didn't put in a formal request to Mr. Davidson about recusing." He asked Mr. Davidson if he would render an opinion based on his situation and involvement with Fellowship. Mr. Davidson replied "Legally, under our ethics ordinance you would not be required to recuse yourself. It is a decision for you to make and if you have any interest unbeknownst to me that you would like to disclose, that would be

appropriate.” Mr. Davidson said he was aware that Councilmember Orlans has children that attend that school and confirmed that would not create a legal conflict of interest for Councilmember Orlans.

Public Comments:

Janet Russell, 260 Willow Springs Drive, spoke on the following:

- Only Councilmember Orlans, Councilmember Igleheart, and the Mayor were serving on Council when the original petition was brought forward five years ago.
- Does not live in the area of this school, does not own property near there, does not attend this church, but realized the strong neighborhood opposition to the construction of this school, the football stadium with the lights because there are two schools just down the road that have those things. They pursued this anyway; it is just a series of sports complexes.
- Agreed with Mr. Townsend that five years ago, they were told what they had to do; time and money to build all of those sports complexes but they didn’t do what they were supposed to do with the plans.
- Churches and schools pay no taxes; contribute nothing to the tax base in this City; school should be cited every time they do not follow the law.
- Asked Council not to defer until July.

Allison Brolick, 210 Darrow Downs, Roswell, Georgia, spoke on the following.

- Many people are okay with deferral but there is concern whether Fellowship might bring new information not already in the City’s records perhaps a couple of days before the July 11 Council meeting which would not give the neighborhood a chance to respond or potentially hire a professional to understand some of this information that is being given to us. Then we are up against the 65-day time-frame for Council’s decision on the application.
- Inquired if Fellowship intends to fix the conditions they have not satisfied for the past five years and if the record is closed.

Mayor Wood asked Mr. Rolader if he anticipated introducing any new or different plans. Mr. Rolader said he did not anticipate making any substantial changes other than to responses to the condition questions. He stated, “There will be two things that I will discuss. I anticipate filing a constitutional challenge so that I am not guilty of malpractice. I have to put that in the thing and I will be glad to provide a copy for anyone who would like it. Secondarily, we have discussed with staff whether conditions #2, #13, and #26 actually apply now and I may address those. Both of those we will be addressing within the next week to ten days. Those are the only changes.” Mayor Wood asked if there are any anticipated changes to the substance. Mr. Rolader replied, no, he would file the letter and would address those three things.

Joe Baxter, 420 Ellenbrook Court, Roswell, Ga. spoke on the following.

- Spoke as an individual but had discussed this with some of his neighbors.
- Preferred that Council would vote on this tonight.
- The lack of compliance that has been clearly laid out by Mr. Townsend.

Public hearing was closed.

Mayor Wood asked Mr. Townsend if there had been any communication with Fellowship. Mr. Townsend confirmed there had been ongoing communication about everything. Mayor Wood asked if they had been warned or cited for anything. Mr. Townsend stated “They had been warned numerous times to come into compliance. I believe the only citation they recently have received deals with drainage.” Mayor Wood said they have been cited. Mr. Townsend replied “Yes, dealing with the drainage issue.” Mayor Wood said the City cites churches from time to time; “We would rather not cite any of our corporate or individual systems; we always try to warn them first and if they don’t come into compliance, we cite them.” Mayor Wood said that rule is true whether it is a church, school, business or an individual. Mr. Townsend replied yes.

Council Comments:

Councilmember Price commented she too was concerned Council would be thrust upon with a lot of information on the final night and it would be worth moving forward with a mindset toward solving some of the outstanding

issues. She suggested there should be some internal updates and noted two committee meetings are scheduled between now and July 11. Mayor Wood asked Mr. Townsend if there would be updates at the next two committee meetings involving Community Development. Mr. Townsend responded yes, staff would update Council. Mayor Wood noted that committee meetings are open to the public for attendance and observation but not open for public comment.

Councilmember Dippolito asked if the internal updates would be presentations by staff or would there be time for questions by Council. Mayor Wood said there would always be opportunity for Council to question staff at committee meetings. Mr. Dippolito said this was a little out of the ordinary from standard procedure and he was concerned about the public on both sides of this issue not being present at those meetings. Mayor Wood clarified that all the committee meetings are open meetings. Mr. Dippolito asked, "So we are now requiring the public to attend additional meetings?" Mayor Wood replied they are not required to attend; he was simply informing them that the City's committee meetings are also public meetings and that they are always invited to attend just as the public is invited to attend the Council meetings.

City Administrator Kay Love stated this item would be placed on the Committee agenda as an information item, provided in normal committee packets, and Council and the Mayor could ask questions related to the information provided. It would not be a committee item that Council would act upon as you normally do, being a zoning issue; it would not be appropriate to seek guidance or an agenda vote like the typical things in committee. She said she would defer to the City Attorney, but did not think that would be appropriate.

Councilmember Dippolito agreed with Ms. Love and said he hoped that would be the course these meetings would take, but additional meetings where there may be some discussion, complicates this issue.

Mayor Wood replied "We are not adding additional meetings. We are simply adding a committee meeting in which Councilmember Price has asked staff to report at committee meetings and update where they are in the process. It's not an additional meeting and it is not a requirement, it's simply an invitation. I think it's appropriate for Council to be kept abreast of events and I think that is what the committee meetings are for."

Councilmember Dippolito said "I respectfully disagree with you. I think by having discussion of a re-zoning item at committee meetings, you are essentially opening it up for the public and for the Council to discuss and you are essentially adding additional committee meetings. Mr. Davidson had a comment that he's been holding back. Maybe we can hear from him."

City Attorney David Davidson said he agreed with Ms. Love's explanation. Mr. Davidson said he envisions this as staff providing Council any information that they receive and that would be all. The information they receive is always open to the public so that is a public record and the public is free to get that same information.

Councilmember Dippolito asked if Council could agree to limit those committee meetings to informational, so there is not additional discussion and questions and potential comments from Council that the community would not need to be concerned about missing.

Mayor Wood stated Ms. Love presides at the committee meeting. The Mayor said he believes that a committee meeting it is an opportunity for Council to ask questions and does not believe in limiting questions.

Councilmember Diamond stated the emails she had seen from staff have also included neighbors and Fellowship to keep everybody aware of the process. She said she would hope that process would continue. Planning and Zoning Director Brad Townsend confirmed staff would continue that process.

Councilmember Igleheart said he was going to suggest that as well, because he agreed with Councilmember Dippolito that yes, people are not required to be here; he hated to add meetings over the next several weeks as we go through the process. He said he would prefer not to defer but Council's practice is to grant a request from the applicant and to try to make it what is best for everyone in the situation. Councilmember Igleheart said given all the factors, he would support the deferral to July.

Councilmember Dippolito noting that Mr. Rolader had earlier made the comment that he hoped all parties together would discuss this, volunteered to meet with the neighborhoods, Fellowship staff, and the appropriate people to see if there is some way for these folks to get together for discussion, if Mr. Davidson thought it would be legally appropriate.

The motion to defer CU11-02, Fellowship Christian Schools, Inc., 10965 Woodstock Road until July 11, 2011 passed unanimously.

8. RZ11-01 Text Amendment for sign code changes to allow additional ground signage and wall signage for properties with 1200 feet of road frontage in C-3 Zoning district. (First Reading)

(Deferred during the April 11, 2011 Mayor and City Council meeting)

Councilmember Price introduced this item. Planning and Zoning Director Brad Townsend stated this is a proposed text amendment to allow an additional ground sign and wall sign for multi-tenant centers in the C-3 Zoning district with 1200 feet of road frontage within the city limits. The deferral from the first reading of April 11, 2011 allowed staff to determine what types of properties or how many within the City would apply this text amendment. There were approximately six or seven pieces of property that would have the excess of 1200 feet in which this would apply. There was also discussion at the legal meeting dealing with other pieces of property that might be within 800 feet; there were not that many additional ones that this would apply, therefore it is within Council's discretion. The one change added at the request of the Planning Commission dealt with changing the thirty percent and seventy percent base sign area criteria. Mr. Townsend stated it is within Council's discretion what they choose to do with this ordinance.

City Attorney David Davidson conducted the first reading of an **ORDINANCE TO AMEND THE CITY OF ROSWELL SIGN ORDINANCE TO ALLOW ADDITIONAL GROUND SIGNAGE AND WALL SIGNAGE FOR MULTI-TENANT CENTERS IN C-3 ZONING DISTRICTS WITH 1200 FEET OF ROAD FRONTAGE WITHIN THE CITY LIMITS OF ROSWELL, GEORGIA**, stating: pursuant to their authority, the Mayor and Council adopt the following ordinance:

1.

Article 22, of the City of Roswell Zoning Ordinance, Signs, Section 22.18 Maximum Height, Maximum Sizes, Setbacks Requirements, and Number Allowances, is amending 22.18 (c) as follows:

- (c) Ground signs allowed under table 22.18(2) shall have a sign structure, which consists of the base and sign face, restricted to a sign base of no less than three (3') feet and no more than five (5') feet in height ~~thirty (30) percent and sign face of no more than seventy (70) percent~~ within the twelve (12) feet or fifteen (15) feet height limit. This regulation shall not apply to templates 25, 26, 27 and 28 as allowed under table 22.18(2) and detailed under table 22.18(8).

Changeable Copyboard Signs: Entities holding regularly scheduled performances or meetings attended by 50 or more persons, exclusive of employees, shall be allowed to use an otherwise permitted ground sign to contain 65% changeable copy of the allowable ground sign area.

Ground signs permitted with the use of a convenience store with fuel pumps shall be allowed to have changeable copyboard for the sign portion used to display the price of fuel per gallon only.

Any ground sign permitted under this Section shall be allowed a portion of the sign area to include a changing sign defined as follows: A sign that electronically or electrically controls the display of time, temperature and date.