



# 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, October 11, 2010

7:00 PM

City Hall

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### WELCOME

**Present:** 5 - Mayor Jere Wood, Council Member Nancy Diamond, Council Member Rich Dippolito, Council Member Betty Price, and Council Member Becky Wynn

**Absent:** 2 - Council Member Kent Igleheart, and Council Member Jerry Orlans

### Pledge of Allegiance

*Alice Wakefield, Director of Community Development*

*Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Fire Chief Ricky Spencer; Deputy Fire Chief Tony Papoutsis; Deputy Fire Chief Paul Piccirilli; Fire Operations Chief Ricky Burnette; Environmental/Public Works Director Stuart Moring; Community Development Director Alice Wakefield; Community Development Deputy Director Clyde Stricklin; Planning & Zoning Director Brad Townsend; City Planner Jackie Deibel; Economic Development Manager Bill Keir; Program Coordinator Stefanie Dye; Director of Transportation Steve Acenbrak; Transportation Deputy Director David Low; Transportation Planning Manager Chris Chovan; Transportation Traffic Engineer Muhammad Rauf; Signal Systems Manager Derrick Crowder; Director of Recreation and Parks Joe Glover; Finance Director Julia Luke; Director of Purchasing Richard Brownlee; Buyer Charise Glass; Purchasing Clerk Jenene Cox; Budget Coordinator Denise Brown; Community Relations Coordinator Kimberly Johnson; Building Operations Technician Doug Heieren; and Deputy City Clerk Betsy Branch.*

## CONSENT AGENDA

1. **Approval of August 30, 2010 Special Called Meeting Minutes (detailed minutes to replace Council Brief Minutes approved on September 13, 2010); approval of September 13, 2010 Council Meeting Minutes (detailed minutes to replace Council Brief Minutes adopted on September 27, 2010); and approval of September 27, 2010 Council Brief Minutes.**  
*Administration and Finance*  
Approved
2. **Approval for the Mayor and/or City Administrator to sign a contract with TerraMark Land Surveying, Inc. for the Sun Valley Extension and Mansell Extension Database Survey projects in the amount of \$42,800.**  
*Transportation*  
Approved

### Approval of the Consent Agenda

*Motion: Councilmember Wynn moved to approve the Consent Agenda. Councilmember Price seconded. The motion passed unanimously.*

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

**In Favor: 4**

## REGULAR AGENDA

### Public Safety - Councilmember Nancy Diamond

1. **Introduction of Roswell Fire Department Battalion Chiefs and appointment of Paul Piccirilli to Deputy Fire Chief.**  
*Presented by Ricky Spencer, Fire Chief*

*Councilmember Diamond introduced this item. Chief Spencer introduced Fire Battalion Chief Michael Vickery (A-Shift) and his wife Lisa; Fire Battalion Chief Van Cowan (B-Shift) and his wife Cheryl; Fire Battalion Chief David Rogers (C-Shift) and his wife Julie; and Deputy Fire Chief Paul Piccirilli and his wife Beth.*

*Chief Michael Vickery is a thirty year employee of the Roswell Fire Department; he has served as a part-time employee, a volunteer, firefighter, captain, and most recently, as a training officer at the Roswell Alpharetta Public Safety Training Center. Chief Vickery retired after thirty years of service with the DeKalb County Fire Department before coming to work with the City of Roswell.*

*Chief Van Cowan is a ten year employee of the Roswell Fire Department, serving as a part-time firefighter. Chief Cowan also recently retired from the DeKalb County Fire Department with twenty-five years of service as a captain.*

*Chief David Rogers is a ten year employee of the Roswell Fire Department. Chief Rogers also retired from the DeKalb County Fire Department as a battalion chief, with twenty-five years of service.*

*Chief Spencer introduced Deputy Fire Chief Paul Piccirilli, recently promoted from Fire Marshall. Chief Piccirilli has served with the Roswell Fire Department for twenty-four years and rose up through the ranks. Deputy Fire Chief Piccirilli is now in charge of the Fire Marshall's Office and Fire Prevention Division.*

*Promotional badges were presented to each new chief. Fire Chief Spencer congratulated these four individual members, and their families, on their promotion and expressed his appreciation for their service to the city. Mayor Wood also congratulated each chief for their dedication and service to the City of Roswell. The Mayor noted that their collective years of fire experience contribute to why Roswell's Fire Department continues to be the greatest fire department in the state of Georgia.*

**Fire Chief Ricky Spencer introduced the new Battalion Chiefs and the appointment of Paul Piccirilli to Deputy Fire Chief. Mayor Wood expressed his appreciation for members of the Roswell Fire Department and their families.**

#### **Administration and Finance Department - Councilmember Jerry Orlans**

2.

#### **Presentation of the National Purchasing Institutes (NPI) Annual Achievement of Excellence in Procurement Award for FY 2010 and the Universal Public Purchasing Certificates Council (UPPCC) Agency Award for FY 2010 to the City of Roswell.**

*Presented by Julia Luke, Director of Finance*

*Mayor Wood introduced this item and noted this is the Purchasing Division's sixth consecutive year receiving this award. Ms. Luke noted that only eight Georgia municipal governments have earned the National Purchasing Institutes (NPI) Annual Achievement of Excellence in Procurement Award for FY 2010; this year, a total of 56 cities across the country have achieved this honor. She could not confirm for Mayor Wood the number of cities that have earned it six consecutive years.*

*In addition, the City of Roswell Purchasing Division was recognized by the Universal Public Purchasing Certificates Council (UPPCC) Agency Award for FY 2010 for one hundred percent of the Purchasing Division staff having earned the title of Certified Public Buyer (CPPB) or the title of Certified Public Purchasing Official (CPPO). When the City of Roswell received this award, three Purchasing Division employees held the designation of CPPB, and one employee held the CPPO designation. Ms. Luke congratulated the Purchasing Division for a job well done. Mayor Wood also expressed his appreciation to the Purchasing staff.*

**Julia Luke, Director of Finance made the presentation. Mayor Wood commended the Purchasing Department employees for their achievement in receiving these two awards.**

**Community Development - Councilmember Betty Price**

3. **RZ10-07, 595 Crossville Rd., David J. Oliver/JAZ Development, LLC, Land Lot 467, C-3c (Highway Commercial) conditional to C-3 (Highway Commercial). Removal of conditions.**  
*Presented by Bradford D. Townsend, Planning and Zoning Director*

*RZ10-07, 595 Crossville Rd., David J. Oliver/JAZ Development, LLC, Land Lot 467, C-3c (Highway Commercial) conditional to C-3 (Highway Commercial). Removal of conditions. Councilmember Price introduced this item on the agenda. Planning and Zoning Director Brad Townsend presented the rezoning. This request is to remove the following three conditions from a rezoning approval in 1983:*

- 1. That the structure would house no restaurant.*
- 2. That the structure would house no alcoholic beverage outlets.*
- 3. At least 50% of the building by gross square footage shall be devoted to office-professional use.*

*Mr. Townsend presented an aerial photograph of the existing building at 595 Crossville Road. The subject property includes a structure with two stories on the rear westerly side of the structure. Sidewalks exist along the north and south portions of the building, providing access to the lower portion of the building. The property contains 38 parking spaces and one access to Crossville Road. Mr. Townsend displayed the zoning map of the subject property which included the North Georgia Bank building on the corner; offices buildings to the east; retail across Crossville Road; residential property with R-4 zoning is adjacent to the property to the south.*

*Mr. Townsend stated staff recommends approval of this application for rezoning. The following staff conditions were recommended being placed on the property to ensure that the applicant meets the parking requirements. Mr. Townsend stated "The parking requirement for restaurants are in excess of those for retail or office so we are trying to control the square footage of the restaurant and that way making sure there is sufficient parking for the rest of the building to be occupied by either retail or office." He noted there is a proposed condition related to the existing monument sign which should be brought into compliance within 180 days for Mayor and Council approval.*

*Mr. Townsend stated the Planning Commission reviewed this application with staff's recommended conditions during their September 21, 2010 public hearing.*

*The Planning Commission recommended approval of this rezoning during their September 21, 2010 public hearing with the following conditions:*

- 1. The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North Georgia.*
- 2. The existing ground sign must come into total compliance with the existing sign regulations prior to the issuance of any business license.*
- 3. No liquor or retail package store will be allowed on this site.*

*Staff Recommended Conditions:*

1. Only one tenant space within the building shall be allowed to be used for a restaurant. Such tenant space size shall not exceed a total of 1,500 square feet.
2. Seasonal plantings shall be added to the brick planter located in the front of the building as reviewed and approved by the Design Review Board.
3. The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North Georgia. Should the Bank of North Georgia agree to the inter-parcel access, a joint access agreement between the two properties must be reviewed by the City of Roswell and recorded with Fulton County prior to the issuance of the first business license.
4. The existing ground sign must come into total compliance with the existing sign regulations prior to the issuance of any business license.
5. No alcohol beverage store will be allowed on this site.
6. At least 50% of the building shall be devoted to office-professional use.

Mayor Wood stated he had concern with the condition regarding inter-parcel access and what might happen if that inter-parcel access is not given. Mr. Townsend replied the way it is currently written, no inter-parcel access exists. He noted that Councilmember Dippolito and the Legal Department have been in discussion today regarding how to redraft this condition.

Mr. Townsend displayed a new set of staff recommended conditions which were drafted late in the day by the Legal department at Councilmember Dippolito's request; Council had not yet seen these conditions.

*\* Revised Staff Recommendation conditions (as shown on overhead screen):*

1. Only one tenant space within the building shall be allowed to be used for a restaurant. Such tenant space size shall not exceed a total of 1,500 square feet.
2. The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North Georgia. Should the Bank of North Georgia agree to the inter-parcel access, a joint access agreement between the two properties must be reviewed by the City of Roswell and recorded with Fulton County prior to the issuance of the first business license.
3. The existing ground sign must come into total compliance with the existing sign regulations within 180 days of Mayor & Council approval.
4. No liquor or retail package store will be allowed on this site.

Councilmember Dippolito confirmed that his discussion with Legal when these conditions were created occurred shortly before this Mayor and Council meeting; it did not provide enough time to distribute the information to Council before this meeting began. Mayor Wood read through the conditions and noted that he preferred not to craft language during the Mayor and Council meeting. He noted that he was not comfortable with the condition as it currently read. Mr. Townsend replied he understood.

Mayor Wood asked what determination Mr. Townsend would make if the owner/developer and the Bank of North Georgia do not reach an agreement. Mr. Townsend replied "My understanding would be if North Georgia Bank, or the property which is currently the Drake House to the south, would come in for some redevelopment or some development approval, inter-parcel access would allow them to get to Clara Drive. That thought process has been that with the Mansell Extension, there were some designs that extended that cul-de-sac to the east connecting it to the Mansell Extension, providing proper circulation in the area." Mayor Wood asked

*if the applicant accepts this condition he would agree to inter-parcel access but it would not be defined where the inter-parcel access was. Mr. Townsend agreed. Mayor Wood asked if inter-parcel access could be imposed later on, down the road, on this subject property. Mr. Townsend stated the city would not be stopped from this property owner prohibiting it. Mayor Wood interjected "This property owner would have pre-consented to it, in advance." Mr. Townsend replied that was correct. Mayor Wood asked if a limitation should be placed that the applicant could not build something in the way of it. Mr. Townsend replied that under the current zoning, the applicant could not get any more square footage on the property with his current parking limitations and building size. Mayor Wood asked to hear the applicant's thoughts.*

*Council questions:*

*Councilmember Wynn noted that the Council packet included six staff conditions. She asked if the new four conditions shown on the screen were the newest, most improved, revised conditions. Mr. Townsend replied yes. Councilmember Wynn asked if it included a definition for a liquor or retail package store. She noted that her understanding from reading the Planning Commission minutes, the applicant may have been looking at selling wine. Mr. Townsend replied "The current code dealing with our liquor licenses does have a definition of that; that was drafted to use. A retail package store is a particular definition in that section of the Code." Councilmember Wynn asked if that would still allow him to have "a wine and cheese" business or something similar. Mr. Townsend replied that was correct.*

*Councilmember Dippolito stated a condition was included which stated that fifty percent of the building would be devoted to office professional. He further stated that the city is trying to provide additional flexibility to the applicant but at the same time, the parking remains a concern. Mr. Townsend agreed. Councilmember Dippolito noted he was somewhat confused how that problem is being solved. Mr. Townsend explained that the largest parking demand would be for restaurant use. If there is a tenant for a restaurant, it could not exceed 1,500 square feet. With that caveat, the rest of the space could be leased completely to retail and still meet the parking numbers. It could also be leased entirely as office and still meet the parking numbers. Councilmember Dippolito clarified that it could be all retail with the exception of 1,500 square feet of restaurant and parking, per what is current. Mr. Townsend stated that was correct.*

*Councilmember Price asked if staff conditions #5 and #6, as shown in the Council packet, have been eliminated. Mr. Townsend stated the Planning Commission removed staff conditions #5 and #6; those dealt with seasonal plantings and the limitation on the 50% office. Councilmember Price noted staff has conditions and the Planning Commission has conditions. Mr. Townsend replied Council could choose any of those conditions or none of those conditions. Mayor Wood asked if staff no longer suggested those conditions and whether that was the reason why they have been removed. Mr. Townsend replied yes. Mayor Wood asked if staff reconsidered their position. Mr. Townsend replied staff acquiesced to the Planning Commission's conditions. Councilmember Price clarified that what Council was viewing on the screen was the current melding of Planning Commission. She stated after reading Planning Commission minutes, "It seemed like a lot of strife, all those sort of non-business friendly things." Councilmember Price said "I guess we are ready for the applicant's viewpoint because I know that initially he wanted to just remove all conditions, and the next thing you know you were adding six; so, what we are at now is these four." Mr. Townsend replied that was correct; condition #2 is being redrafted or recommended to be redrafted. Councilmember Price asked "Why do we have to have anything there," dealing with inter-parcel access. Mr. Townsend replied it is Council's directive at least to provide as many inter-parcel access locations as*

possible; it provides a circulation pattern off of the main road which solves or at least helps in alleviating some of the congestion. Councilmember Price asked if the applicant desires that, and the other party is not willing, "why does it involve us; isn't it between them?" Mr. Townsend replied that it is between all three parties. Mayor Wood added that the city is encouraging them to do this. The Mayor further stated that in making the concession to remove conditions, we are saying "we would like you to make a concession to say that if inter-parcel access becomes possible, I will consent to it." Mayor Wood agreed that we try to encourage inter-parcel access where ever we can. Councilmember Price responded, "I understand that the applicant wants that so the issue is the other party." Mayor Wood stated he would like to see inter-parcel access but we have not heard yet from the applicant.

Councilmember Dippolito asked about the reason for isolating and restricting the particular use of liquor or retail package store. Mr. Townsend replied that it was the original condition and did not think it was for a particular reason. Councilmember Dippolito stated he thought that originally, there was a church next door to the subject property. Mr. Townsend stated that was correct; in addition, currently there is residential existing adjacent to the property and why this original condition seemed appropriate. Councilmember Dippolito asked if the ordinance limits liquor or package stores. Mayor Wood replied there is required distance between package stores and there is a package store across the street from the subject property, which may make this a moot question. Councilmember Dippolito asked if that condition is needed at all because it seems like a leftover from a previous situation that has now gone away. Mayor Wood asked Mr. Townsend if he saw a need for this condition. Mr. Townsend answered "If it was originally placed because of the church, no, because the church no longer exists." Mayor Wood replied that he asked independent of that; does staff see a policy reason that the city would need distance. Mr. Townsend asked City Attorney David Davidson if there is an ordinance requiring a distance between package stores. City Attorney David Davidson replied no; he further noted that there is a 200 yard distance requirement for package stores from a residential property.

Councilmember Dippolito referred to the site plan and noted that it showed two spaces on the south property line that do not appear to function. He stated that if there are cars parked head on toward the building there would not be sufficient distance for those cars to back up; these spaces may be drawn as parking spaces but are not actual parking spaces. Mr. Townsend, referring to the site plan replied they were probably approved originally but it is inaccurate; those spaces could not be utilized. Councilmember Dippolito stated the point is that there is actually two less parking spaces. Council could not approve that because, it does not work functionally. Councilmember Dippolito requested that those spaces be removed from the site plan.

Councilmember Dippolito asked if in order to have additional flexibility, as far as the uses, would it be possible to word condition #1, regarding the 1,500 square foot restaurant in a way that the planning director has some flexibility. He said he understood there is some administrative ability to alter within ten percent, the number of parking spaces. Mr. Townsend stated that was correct; the current code allows that administrative ability. Councilmember Dippolito asked if Council added a "hard and fast number of 1,500 square feet for a restaurant, if the applicant came in and had a 1,700 square foot restaurant, then he would have to come back through a zoning process." Mr. Townsend replied "The way it is currently written, yes." Councilmember Dippolito asked City Attorney David Davidson if there was a way to add flexibility for the zoning director so that Council could, within reason, allow that provided the parking is adequate. Mr. Townsend replied "I would feel comfortable if you would give me a not to exceed number, if possible." Councilmember Dippolito replied "If he wanted to add a little bit more square footage on the top floor to have a

larger restaurant but he converted some of the ground floor space to storage only or something like that to enable a little bit more flexibility here to try to help the project work." Mr. Townsend replied he thought staff would be able to work with him if he brought tenants of such a nature to the city that said they were trying to work within ten percent of the parking numbers; with the way it is written, this would lock him in with that type of number. Councilmember Dippolito asked City Attorney David Davidson if he had any suggestions. Mr. Davidson suggested the language "provided that the zoning administrator shall be authorized to allow an additional number of square footage depending on parking and other uses within the building." Mr. Townsend added "meaning the parking requirement." Mr. Davidson stated he did not know what that number would be since he did not know the calculations on the tenant space, square footage, and parking requirements. Mr. Townsend replied those numbers would be provided. Councilmember Dippolito stated he would like to have those calculations before the decision is made.

Mayor Wood stated he would like to know if the applicant was agreeable to the conditions.

*Applicant:*

David Oliver / JAZ Development, stated he had not seen these four revised conditions until they put them up on the overhead projector. Mr. Oliver noted the conditions were discussed at the Planning Commission hearing and some were consistent with the six recommended staff conditions. Mr. Oliver stated "I thought we had agreed and resolved the restaurant square footage issue, the inter-parcel access issue, and the alcoholic beverage issue. I did agree to make the sign conform, which was condition #4." Mr. Oliver stated he was not sure how to respond to the Mayor's question whether he agreed to the conditions. Mr. Oliver said he would like to know if it is permissible to withdraw his application at this late date. Mayor Wood replied it was possible. Mr. Oliver replied he was told that he could only withdraw after the Planning Commission within a certain time period. Mayor Wood stated another option would be to defer, to allow time to work things out. City Attorney David Davidson said the applicant could ask for a deferral until next month to work through this with staff and bring it back to Council next month; a withdrawal would "cost the applicant a year" before he could return to Council with this plan. Mr. Oliver replied "None of these are life or death. We are trying to do a good thing here and renovate a very old decrepit building. I can live with zero changes to the zoning or I could live with the ones that are requested, which were very reasonable." Mr. Oliver stated he spent two hours on September 21, 2010 talking through all of these conditions, coming to a resolution after much discussion, including condition #1, which limits him to 1,500 square feet. Mr. Oliver stated he would like to strike condition #1, and #2; he agreed to condition #3 and agreed to condition #4 with the caveat that if it is alcoholic sale as part of a restaurant that sells package wine, or sells alcohol for all premise consumption, that he be allowed to do that; he confirmed that he was not going to do a liquor or package store. Mr. Oliver said that was what they talked about and agreed to on September 21, 2010.

Mayor Wood inquired with the applicant whether he would either like to withdraw it, or have it approved with condition #3 and condition #4; he asked Mr. Oliver to explain condition #4 again. Mr. Oliver replied "If you have a restaurant like what is on the square where there is a new wine store that offers off premise sale of wine. A wine bar, if you will, that would be permissible, as opposed to a straight liquor or package store. No package, no beer." Mayor Wood stated Mr. Oliver was saying no liquor or retail package store; which is limited under the city's definition.

City Attorney David Davidson stated "The one you are talking about is actually two separate addresses. That is the only way he can do that under our ordinance; he



has a restaurant with consumption on the premises and he has a wine shop, which is a separate address. This language would prohibit you from being able to do that because it would be a retail package store. The way it is worded right now, this #4, would not allow you to have the sale of the bottles of wine. You could pour it on the premises; you just could not sell it by package." Mr. Oliver replied "It is not that big a deal." Mayor Wood asked the if he was fine with basically condition #3, and #4. Mr. Oliver replied "Correct." Mayor Wood asked if he would rather withdraw it than have it with condition #1 and #2. Mr. Oliver replied "Correct."

*Council questions:*

Councilmember Diamond, referring to the 200 yards restriction, asked if we did not have condition #4, would the 200 yards prohibit the wine sale. City Attorney David Davidson replied he had no idea what the distance is from there to the residential area. Councilmember Price asked if it was to the structure or the property line. City Attorney David Davidson replied it was to the structure; he further stated "I think the language is actually from the front door of the establishment out to the sidewalk, down the sidewalk, around to the other property, so, if the sidewalk doesn't go to the Drake House property behind it, then he would go out and around and he would be more than 200 yards."

Councilmember Diamond asked Mr. Oliver if the revised inter-parcel proposal was more palatable to him. Mr. Oliver replied he had not seen the revised conditions until this evening. Mayor Wood suggested that the site plan, which Councilmember Dippolito had indicated the two parking spaces that could not be used, be placed on the screen. The Mayor asked Councilmember Dippolito about the use of the language "if inter-parcel access became available you would allow inter-parcel access where those 2 parking places are," since you cannot really use them anyway. Mr. Oliver replied he was generally in favor of inter-parcel access but did not like making a decision regarding his property "fifteen minutes before we have a final approval of the zoning." He added that it should be something that two private property owners work on, although he understood the "global" concept of inter-parcel access, but he was reading it for the first time. Mayor Wood replied he also was reading it for the first time.

Councilmember Wynn stated the Planning Commission minutes indicated that Mr. Oliver was okay with the Planning Commission conditions passed on September 21, 2010 related to the inter-parcel access; the sign; and no liquor or package stores. Mr. Oliver confirmed he was fine with those three conditions. Councilmember Price stated "The current ones are actually gentler on him because it says 'instead of prior to any business license' it actually gives a certain amount of time, doesn't it?" Mr. Oliver replied that was the issue that he had at the Planning Commission.

Mayor Wood asked what his understanding was when he agreed to the inter-parcel access at the Planning Commission hearing. Mr. Oliver replied "The one that was in the Planning Commission. The problem I had with it is they said unless you agree to the inter-parcel access, you can't get a business license." Mayor Wood stated "That doesn't work." Councilmember Wynn replied that was not what it stated in the Planning Commission minutes. Mr. Oliver replied "This is okay." Councilmember Wynn clarified that the Planning Commission minutes state "Issuance of a business license was contingent on your ground sign," not for the inter-parcel access. Mr. Oliver replied "We talked about that prior to this meeting as well, that I would have 180 days from Council's final approval." Mayor Wood asked what Mr. Oliver would agree to as far as the inter-parcel access; what would he find acceptable as far as a condition on inter-parcel access. Mr. Oliver replied "What we have said here in the Planning Commission's recommendation: 'The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North Georgia.'"

Councilmember Price stated "The other difference between Planning Commission's and what is on the screen now, as far as the sign, is 180 days compared to business license. Really, #3 as on the screen, is more workable, I would assume, than 'prior to issuance of the business license.'" Mr. Oliver replied yes; he confirmed that condition works. Councilmember Price stated "The only issue I see as a concern is the liquor. Did we resolve the liquor issue? I mean as it regards the distance and all that." Mayor Wood replied he did not think there had been any firm conclusion. City Attorney David Davidson stated "I don't have my code with me and I don't know the exact distances, but just from looking at it and the way the definition reads, he would be able to have a liquor store, unless this condition is in there, or a package store." Councilmember Price added "The only thing he really wants is a potential wine packaging. Can you condition it for whatever he may want; is that acceptable?" Mr. Davidson stated the city has a retail beer and wine only license that does not include liquor. Councilmember Price asked "Is that more workable to what potentially could be there?" Mayor Wood stated he understood the applicant to say that he does not have a problem with it, but he also heard from Councilmember Dippolito that he does not have a problem removing it. Mr. Oliver stated "The original issue I had was the 1983 zoning condition said the structure would house no alcoholic beverage outlet, and I didn't know if that meant I couldn't do a sub-sandwich shop that sold a beer with a sandwich." Mr. Davidson stated that was the reason why the language was changed. Mr. Oliver stated "But, the intent, and however you all want to word it, is I don't need to do a liquor store, if that is what you want to protect yourselves from. I'm not trying to do a liquor store."

Councilmember Dippolito stated the inter-parcel access is important on this particular piece of property because it is an opportunity to provide additional connectivity and access out to Crossville Road for some of the internal properties; it would be potential access down to Clara Drive, and ultimately down to Highway 9, which could work in everyone's best interest. He noted the Transportation department continues to try to provide alternate traffic routes to the highways. Councilmember Dippolito stated "The concern I had about the inter-parcel condition that was given to us was that it was a requirement before you had a business license. I don't think that is appropriate, but I think it would be appropriate to have some level of commitment that in the future, if that opportunity arises that the applicant would be amenable to it. There is no requirement to convince Drake House of it, or Bank of North Georgia. It is just saying that if in the future they are willing to do or those properties re-develop and they want to do it, then you would allow that." Councilmember Dippolito added that he tried to work with the Legal department to come with language that would be an obligation or a commitment to do that in the future but not necessarily make any requirement as of today and it does not really burden the property. Realizing that Mr. Oliver was only seeing this for the first time, Councilmember Dippolito stated he would be open to a request for a deferral, if he needed to take some time to think it over. He asked Mr. Oliver if he had any questions regarding the inter-parcel access.

Mr. Oliver stated "As we talked about in the Planning Commission, generally it is for my benefit. It is a single entrance right-in, right-out, median bound. Any extra access I could get out through Bank of North Georgia, which is what we primarily discussed about because that was the condition that was drafted. It was specific to Bank of North Georgia." Mr. Oliver stated that to do away with the two parking spaces which are located in front of the building and provide some future agreement is hypothetical; it is "great for everybody except the person that leases that space and now has a cut-through." Councilmember Dippolito replied "It is hypothetical but those two spaces actually aren't spaces." Mr. Oliver noted that the Mansell Connector is in front of that space. He asked if Council is talking about connecting to Highway 9. Councilmember Dippolito replied that it would "connect out but would have to

eventually go through some property and then out to Clara Drive, and then down Clara Drive to (Highway) 9." Mr. Oliver stated "The pediatrician that I am trying to lease the space to, that has young children walking across my parking lot is now going to be looking for cars cutting through from Highway 9 to Crossville." He disagreed that it would be great for everybody and suggested that it be studied. Councilmember Dippolito said there are two spaces, which as had been pointed out, are not actually parking spaces even though they are drawn that way; it would not be physically possible to put a car in there and have the other spaces work; Mr. Oliver's point is valid regarding the traffic, although he did not think there would be a high volume of traffic.

Councilmember Price stated "What we are looking at now on the screen is really pushing the applicant to make a decision that may not be in his best interest. I just think it is really unfair for us to ask him. That doesn't limit it to one opening and how many parking spaces would he lose, and therefore, other business license wouldn't be able to be issued because there wouldn't be adequate parking. I don't think this is well thought out and I don't think we should insist upon it."

Mr. Oliver stated he had no further comments to make.

Mayor Wood invited public comments; no public comments were made.

Mayor Wood inquired with Mr. Oliver regarding what he planned to do regarding this rezoning application. The three options would be a deferral, a dismissal, or accept these conditions. Mayor Wood stated that he was not suggesting that Mr. Oliver change his position; his request was for a final clarification of what Mr. Oliver's final position was, a "final answer." Mr. Oliver replied he was "okay" with the Planning Commissions recommendations with the exception of condition #2 related to bringing the sign into conformance prior to the issuance of any business license but he thought Mr. Townsend had language drafted that "it would be within 180 days of Council's final approval." Mr. Townsend displayed the staff report, from the Council's package, on the overhead projector which showed the Planning Commission's recommendations on page 2 and was what Mr. Oliver also referenced; the staff report contains Planning Commission's original drafted recommendations. Mr. Oliver confirmed that he agreed with those three conditions, but had concern regarding condition #2. Mr. Townsend stated "On #2, the Planning Commission did discuss allowing the sign to be brought into compliance within 180 days instead of holding the business license." Mayor Wood noted that he thought Council now had a clear understanding of what the applicant's "final answer" was. Mayor Wood called for any last comments; there was no further discussion. Mayor Wood called for the motion.

Motion: Councilmember Price stated "I would like to move for Approval of the changes of conditions for RZ10-07, the conditions being three conditions:

1. The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North Georgia.
2. The existing ground sign must come into total compliance with the existing sign regulations within 180 days of approval by Council.
3. No liquor or retail package store will be allowed on this site."

Mayor Wood asked if anyone wished to second the motion. Mayor Wood noted the motion failed due to lack of a second.

Mayor Wood asked if there were any other motions or amendments. Councilmember Diamond stated she was comfortable with the idea of condition #1 but would like more specific language. At Councilmember Diamond's request, Mr. Townsend provided the language discussed shortly before the meeting. Councilmember

Diamond stated the condition did not quantify where that space would be and it does not require that it would happen if either party on the other side is not interested. Mr. Townsend agreed with Councilmember Diamond and noted that it just gives a commitment from this property owner that at such time inter-parcel access was desired from either of those property owners, there would not be an impediment from this property owner in getting it. Councilmember Diamond asked Mr. Oliver if he thought he could be comfortable with this condition, if it was deferred for him to have a chance to evaluate it, or was he not comfortable at all with it; what part of it concerned him. Mr. Oliver replied "As general as we are trying to make it because we don't know what we are trying to do makes it that much more dangerous down the road if somebody comes back to me and says 'you gave approval.' It is like a blanket easement over your property. I would actually like it to be very, very specific that it connects to Bank of North Georgia's property. The problem is they don't want that." He added that now the alternative would be a shift in the property line to the west, which he did not know would work now or in the future.

Mayor Wood asked Councilmember Dippolito if he had any suggestions regarding how to be specific about an easement next to Bank of North Georgia. Councilmember Dippolito stated he had suggested those two spaces, which had been previously talked about during this meeting and which he thought would be the best place for the inter-parcel access, but apparently, Mr. Oliver is not in favor of that. He further stated that the two spaces could be defined over by the Bank of North Georgia but then there is the loss of two parking spaces. Mayor Wood suggested the language state "In the event that Bank of North Georgia agrees to inter-parcel access, he would give up 2 parking spaces adjacent to Bank of North Georgia to create a connection." Mr. Oliver replied "I would do that today if Roswell would relax the parking code by 2 spaces." Mayor Wood replied that he would support relaxing the parking requirement by 2 spaces. Councilmember Dippolito stated "Adding it there is fine, but as far as how we determine the parking spaces we still have left that an open issue, based on the conditions. I am not exactly sure where we are on it, which is why I was suggesting a deferral to work it out." Mayor Wood replied "However many parking spaces he has, if he gives up 2 parking spaces for inter-parcel access we would give up 2 parking spaces from what our minimum requirement was." Councilmember Dippolito stated he would be in favor of that. Mayor Wood asked if staff could come up with the exact language for that, if Council passed this item. Mr. Townsend replied "Staff probably has that authorization with the current language allowed under the Zoning Director, of the ten percent. With ten percent, it is 3.8 parking spaces." Mayor Wood replied this would not be discretionary; it would be if he gives it up, he gets it. Mr. Townsend replied "Staff understands the full intention of the Council that, is how it would be handled."

Mayor Wood inquired with Councilmember Price whether she wanted to make another motion. Councilmember Price replied "Yes, I was just going to ask a question. Looking at this big sheet, whatever that is, is it possible that inter-parcel would go to the end of the parking lot and out that other?" Mayor Wood added "Councilmember Price, because we don't have an agreement with Bank of North Georgia and we don't know what their plans are, I think you need to float it, you need to have a floating two (2) parking spaces rather than a definite two (2) parking spaces, it gives you more flexibility to work with Bank of North Georgia." Councilmember Price asked "Is there a parcel number there, because we don't know that is always going to be Bank of North Georgia." Mayor replied it could be stated: "currently owned by Bank of North Georgia."

Amended Motion: Councilmember Price stated "Modifying, assuming that the lack of a second was for because of item #1, may I pose another." Mayor Wood replied "You may make another run at it. That was not your final answer." Councilmember

Price stated "For item #1, The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North Georgia." Mayor Wood stated "I think what they are asking for is the owner would agree that in the event that the Bank of North Georgia agrees to inter-parcel access, he would give an easement across two spaces adjacent to Bank of North Georgia and at the same time the City of Roswell would agree to reduce his minimal parking requirement by two parking spaces." Planning and Zoning Director Brad Townsend confirmed for Mayor Wood that would cover it. Councilmember Price stated "I am concerned about that second clause, also." Mayor Wood stated "I am just trying to get something passed." Councilmember Price replied "Right, I agree. Can you go back to the most recent proposal wording."

2nd Amended Motion: Councilmember Price stated "The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North Georgia and agree to..." Councilmember Price paused. Mayor added "In the event the Bank of North Georgia agrees to inter-parcel access he will give up two (2) spaces and the city will reduce his minimum parking requirement by two (2) spaces." Councilmember Price stated "That sounds good. I like that. Was there anything else that needs to be on that?" Mayor Wood asked if Council had anything to add.

Councilmember Dippolito asked whether two (2) spaces would be adequate for inter-parcel access; it is only eighteen (18) feet. Councilmember Price stated "That is why you could go down to the end, there." Planning and Zoning Director Brad Townsend replied staff would work on it; eighteen will work. Councilmember Dippolito stated "Or, should we modify the conditions, instead of saying two (2) spaces with the spaces that he loses to provide the inter-parcel access, would be waived." Mr. Townsend replied "Use the caveat of between two (2) or three (3) spaces." Councilmember Dippolito added that perhaps it be worded in a way that the spaces he loses by giving the inter-parcel access can be waived, as a condition. Mr. Townsend agreed. Mayor Wood asked if the applicant agreed with that. Mayor Wood noted that he might have to give up 2.5 spaces. Mr. Townsend replied "He is shaking his head yes." Mr. Oliver replied "Yes."

Mayor Wood stated "Councilmember Price why don't we make a motion. He asked staff to place the Planning Commission conditions on the overhead screen again for viewing. Mayor Wood stated "The conditions being:"

1. "The owner/developer shall be required to grant an easement for inter-parcel access to the (Bank of) North Georgia property, not to exceed the width of three (3) parking spaces provided the City of Roswell reduces the minimum parking requirement by an equivalent number of spaces.
2. The existing ground sign must come into total compliance with the existing sign ordinance regulations within 180 days from the date of the passage of this.
3. No liquor or retail package store will be allowed on this site."

Mayor Wood asked Councilmember Price if that was her motion.

3rd Amended Motion: Councilmember Price stated she was happy with #2 and #3, as those were the same but was not certain about #1. Mayor Wood stated "Mr. Townsend if you'll come up with some language based upon what I read, what I said." Mr. Townsend replied "I'm going to try. The owner/developer shall review the inter-parcel access with the Bank of North Georgia. In event that the bank agrees to inter-parcel access, the applicant will be allowed to reduce his parking requirement by as much as three (3) parking spaces." Mayor Wood replied "Well, he will be allowed to reduce his parking requirement by the same amount that he gives up parking spaces for this exchange. If he gives up two (2) spaces, he gets two (2) spaces; if he gives up three (3) spaces. And, what I said in mine, he doesn't have to

give up more than three spaces. Three spaces would be the max." Mr. Townsend replied "Okay." Mayor Wood stated he thought we could pass this resolution with that intent and they could craft that language based upon that intent. Mr. Townsend replied "Yes, we can." Mr. Townsend added "And, he'll review it before it gets signed by me." Councilmember Price stated "If the applicant trusts that we can make that happen, I make that as a motion."

Mayor Wood clarified that there was a motion and asked for a second. Mayor Wood stated "Now, this is your second final answer. You still have an opportunity to withdraw this motion if you are not comfortable with that motion that was made. Do you wish to exercise that option to withdraw your motion, your petition?" Mr. Oliver replied "Yes sir." Mayor Wood stated "We have a motion and a second. Further discussion? All in favor of the motion raise their hands. Passes unanimously."

Vote on the 3rd Amended Motion: The motion passed unanimously.

**A motion was made by Council Member Betty Price, seconded by Council Member Nancy Diamond, that this Item be Approved with Changes in the wording of the the Planning Commission Recommendations as follows:**

- 1. The owner/developer shall be required to review the possibility of inter-parcel access with the Bank of North GA. In the event the bank agrees to inter-parcel access, he (owner/developer) shall provide such access. The City of Roswell hereby grants the Zoning Administrator the authority to reduce the minimum parking requirement by 2-3 spaces as allowed by the current Zoning Ordinance for the property if the owner/developer provides such inter-parcel access.**
- 2. The existing ground sign must come into total compliance with the existing sign regulations within 180 days from the Mayor & Council approval.**
- 3. No liquor or retail package store will be allowed on this site.**

The motion carried by the following vote:

In Favor: 4

4.

#### **Text amendment regarding the Precious Metals and Gem Ordinance. (Second Reading)**

*Presented by Bradford D. Townsend, Planning and Zoning Director*

#### **4. Text amendment regarding the Precious Metals and Gem Ordinance. (Second Reading)**

Councilmember Price introduced this item. Planning and Zoning Director Brad Townsend presented the proposed text amendment regarding Precious Metals and Gems Ordinance and stated Mayor and Council approved the first reading on September 13, 2010. He explained this proposed text amendment was drafted to remove the bond requirement of \$100,000; to remove the Mayor and Council public hearing requirement; and change to an administrative approval by staff. At their September 13, 2010 meeting, Mayor and Council discussed the current code grace period requirement of fifteen (15) days before the business can sell the purchased precious metals or gems; this grace period is five days longer than the state requirement for pawn shops. Mr. Townsend noted that at the first reading of this proposed text amendment, Mayor and Council requested further committee discussion regarding distance requirements; as a result of that committee discussion, the next item on this meeting agenda for consideration is RZ10-09, the proposed initiation of a text amendment to the zoning ordinance regarding distance restrictions between precious metals and gem dealers and pawn shops and/or check cashing

locations. Mr. Townsend stated staff recommended approval of the second reading of the proposed Precious Metals and Gems text amendment.

No Council comments or questions were made.

City Attorney David Davidson conducted the second reading of the ORDINANCE TO AMEND THE CITY OF ROSWELL CODE OF ORDINANCES DEALING WITH PRECIOUS METALS AND GEM DEALERS BY THE DELETION OF THE PERFORMANCE BONDING REQUIREMENTS AND THE DELETION OF THE REQUIREMENTS FOR A PUBLIC HEARING BY THE MAYOR & CITY COUNCIL, ADDING AN APPEAL PROCESS TO THE MAYOR & CITY COUNCIL FOR ANY DENIED LICENSES FOR A PRECIOUS METALS AND GEMS DEALER stating: pursuant to their authority, the Mayor and City Council adopt the following ordinance to remove the requirements for a performance bond and the public hearing. Also, change the license approval from the Mayor and City Council to the City Administrator and include an appeal procedure of denied licenses to be heard by the Mayor and City Council:

1.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.3 Definitions as follows:

Section 10.4.3 Definitions.

Chief of police shall mean the chief of police of Roswell or his/her designated representative.

City administrator shall mean the city administrator of Roswell or his/her designated representative.

Renewal, when used in connection with an application for a license, shall relate to an unrevoked license of purchase and sale of precious metals and gems to a designated licensee for a designated location, on expiration of which unrevoked license the identical owners thereof, but no other, may be entitled to a new annual license upon filing of the necessary renewal application, clearance of the chief of police, payment of a twenty-five-dollar investigation fee, payment of the license fee and approval of the city administrator.

2.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, deleting Section 10.4.5 (i) and renumbering existing Section 10.4.5(j) to Section 10.4.5 (i) Application for Permit as follows:

Section 10.4.5 Application for Permit.

(i) Payment by check. Dealers shall pay for items covered under this article by check rather than cash in order to provide a more complete record of transactions.

3.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.8 Issuance as follows:

Section 10.4.8 Issuance.

*Upon receipt of an application for a license in accordance with the provisions of section 10.4.5 and a check for \$25.00 to cover the investigation fee, the chief of police shall cause such investigation of the applicant's business responsibility or moral character to be made as he deems necessary for the protection of the public good. The chief of police shall make a report of his investigation to the city administrator. The chief of police may, after investigation and finding that the health, safety, or welfare of the public so demands, recommend that a license not be issued to an applicant for reasons including, but not limited to, the following:*

- (a) Conviction of any felony under the laws of this state or any other state of the United States, provided, however, this shall not apply to any person who has been convicted of a felony after ten (10) years have expired from the date of completion of the felony sentence;*
- (b) Conviction of any crime within the ten (10) years immediately preceding the date of the filing of the application involving moral turpitude;*
- (c) Fraud, misrepresentation or false statement of material or relevant facts contained in the application;*
- (d) That the applicant has engaged in a fraudulent transaction or enterprise; or*
- (e) An applicant for a license may, in the discretion of the city administrator be issued a temporary permit based upon a preliminary investigation by the chief of police, which permit shall remain in effect until the issuance or denial of a license as herein provided. A confidential record of the investigation shall be kept on file by the chief of police.*

*4.*

*Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.13 Requirements and Unlawful Activities as follows:*

*Section 10.4.13 Requirements and Unlawful Activities.*

*(a) It shall be unlawful for any dealer in precious metals or gems or any agent or employee of a dealer in precious metals or gems who makes purchases of precious metals or gems or of goods made from precious metals or gems to:*

- (1) Make any false statement in the application for a license as provided for in this article;*
- (2) Fails to maintain and make entries in the permanent record book as required by section 10.4.9 of this chapter;*
- (3) Make any false entry therein or skip any pages in the record book;*
- (4) Falsify, obliterate, destroy or remove from the place of business such permanent record book;*
- (5) Refuse to allow any duly authorized law enforcement officer to inspect such permanent record book or any precious metals or gems or goods made from precious metals or gems in his possession, during the ordinary hours of business or at any reasonable time;*



(6) Sell, exchange, or remove from the legal possession of the buyer or to alter the form of any precious metals or gems or goods made from precious metals or gems purchased by remounting, melting, cutting up, or otherwise altering the original form until at least fifteen (15) calendar days have elapsed from the time of purchase or acquisition;

(7) Fail to make the written reports as required in this article or make a false report; or

(8) Purchase any precious metals or gems from any person under seventeen (17) years of age.

(b) It shall be unlawful for any person to advertise or transact business as a dealer in precious metals or gems without first registering pursuant to the provisions of this article. Provided, however, those dealers in the business at this time must make application for a license within ten (10) days after the effective date of this article, but may continue to transact business under the terms of this article unless the chief of police recommends that their license be revoked and the city administrator refuse to allow such licensee to continue in this business.

5.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, deleting Section 10.4.16 Public Hearing and placing the following Section 10.4.16 number in Reserved as follows:

Section 10.4.16 [Reserved]

6.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, deleting Section 10.4.19 Public Hearing not required for Renewal and placing the following Section 10.4.19 number in Reserved as follows:

Section 10.4.19 [Reserved]

7.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending and renaming Section 10.4.20 Approval by City Council Required for Renewal; Filing Objections as follows:

Section 10.4.20 Approval by City Administrator Required for Renewal; Filing Objections.

(a) A city license or renewal thereof shall not be issued hereunder until the application therefore is approved or granted by the city administrator. All licenses expire on December 31 of each calendar year; provided, however, when timely objections to an application for a renewal license are filed, the life of the current unexpired license is hereby extended to and through the date on which the city administrator grants or denies such renewal application, or until the first Tuesday next after the first Monday in the next February, whichever date is first, if the annual license fee for such renewal shall have been deposited with the city treasurer for such renewal period within five (5) days after being notified that objections have been

*filed to his application for renewal of his license.*

8.

*Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.21 Issuance of License after Approval and Fee Payment as follows:*

*Section 10.4.21 Issuance of License after Approval and Fee Payment.*

*When an application for a license, or renewal thereof, has been approved by the city administrator, and the applicant has deposited with the city clerk the annual license fee, the clerk shall issue such license.*

9.

*Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.23 License a Privilege only as follows:*

*Section 10.4.23 License a Privilege Only.*

*Licenses hereunder shall be mere grants or privileges, and the city administrator of Roswell, Georgia, shall have the discretion to approve or deny any application for a license to sell precious metals and gems or to revoke the same under the provisions of section 10.4.25.*

10.

*Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, adding new Section 10.4.24 Appeal procedure as follows:*

*Section 10.4.24 Appeal procedure.*

*(a) In the event of a rejection of the license by the city administrator of Roswell or his/her designated representative, the police department or any other person (other than mayor and city council), the applicant shall, within ten days after he has been notified of an adverse determination, submit a notice of appeal to the city clerk. The notice of appeal shall be addressed to the mayor and city council and shall specify the subject matter of the appeal, the date of any original and amended license or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the council, and the name and address of the applicant. The clerk shall place the appeal on the agenda of the next regular council meeting occurring not less than ten (10) or more than thirty (30) calendar days after receipt of the application for council action.*

*(b) When an appeal is placed on the council agenda, the council shall set a hearing date and instruct the city clerk to give such notice of hearing as may be required by law.*

*(c) Whenever the city clerk has scheduled, an appeal before the city council, at the time and date set therefore, the mayor and city council shall receive all relevant testimony and evidence from the applicant, from interested parties and from city staff. The city council may sustain, over-rule or modify the action dealing with rejection of the license. The action of the mayor and city council shall be final.*

11.

*Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, renumbering Section 10.4.24 to Section 10.4.25 and amending License Fees; Conduct of Business Prohibited after Expiration of License; Fees Nonrefundable as follows:*

*Section 10.4.25 License Fees; Conduct of Business Prohibited after Expiration of License; Fees Nonrefundable.*

*(a) All licenses and renewals thereof must be obtained and all fees paid by the applicants therefore by certified check or cash within fourteen (14) days from the date of approval of the license application by the, city administrator or no later than the last business day of the calendar year that the city hall is open for business. The effect of a failure or refusal to pay such annual license fee within such time shall be to nullify such approval which then expires, and the license or renewal shall be void. No business shall be conducted after revocation or expiration of a license, or renewal thereof, unless a further renewal has been issued and paid for or the life of the expiring license has been extended as herein authorized.*

*(b) If after approval by the city administrator of an original application for a license, or the renewal thereof and the payment by the licensee of the annual fee, the licensee fails to exercise the privilege conferred by the license within nine (9) months from the date of approval of such original application or renewal by the city administrator, the license shall be automatically forfeited for the unused term of the license, without refund of any fee paid.*

12.

*Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, renumbering Section 10.4.25 to Section 10.4.26 and amending Cancellation of License for Cause after Hearing as follows:*

*Section 10.4.26 Cancellation of License for Cause after Hearing.*

*No license which may hereafter be issued hereunder shall be suspended, revoked, or cancelled except for cause as herein defined, after a public hearing upon at least ten (10) days' prior written notice to the licensee of the time, place, and purpose of such hearing, with a statement of the reason for such hearing.*

*"Due cause" for suspension, revocation, or cancellation of a license hereunder shall consist of any violation of this article, or any part of it, or any laws or ordinances of this city or state prohibiting or regulating the business of purchasing, selling or dealing in precious metals and gems, or violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law involving moral turpitude, or violation of city ordinances other than traffic ordinances. It shall also consist of willfully making false statements, being involved in any scheme for himself and/or herself or that of another applicant which misleads the city in granting a license or renewal, or willful concealment of material matters of fact in obtaining or preventing another from obtaining a license hereunder.*

*Notice to a licensee to show cause why his license should not be revoked shall consist of a certified copy of a letter from the city administrator charging the licensee, or information and belief, with the violation of a law or ordinance provision, or violation of a provision of this article or state law, which alleged violation, if true,*

warrants revocation, and notifying such licensee of the time and place of a public hearing, which certified copy shall be served on the licensee in person or by delivery of it to the licensee by delivering it to the licensee's authorized agent in this city or if neither of the foregoing methods of service can be effected, then by tacking it to the front of the precious metals and gems outlet in said city. Service may be perfected by a city police officer of this city or some other person authorized to serve such papers.

City Attorney David Davidson noted that if approved, this would be the second reading of the ordinance.

Mayor Wood asked if there is a period of time requirement for holding precious metals before it could be melted down. City Attorney David Davidson replied "Under this ordinance, it will be fifteen (15) days." The Mayor asked what the period of time is for holding items under the city's pawn shop ordinance. Mr. Davidson replied it is ten days (10).

Motion: Councilmember Price moved to approve Text amendment regarding the Precious Metals and Gem Ordinance as read by Mr. Davidson. (Second Reading) Councilmember Diamond seconded. Public comment invited; none was heard. No further discussion. The motion passed unanimously.

**A motion was made by Council Member Betty Price, seconded by Council Member Becky Wynn, that this Item be Approved on Second Reading. The motion carried by the following vote:**

**In Favor: 4**

Enactment No: ORD 2010-10-15

**5.**

**RZ10-09 Text amendment** to the zoning ordinance regarding distance restrictions between Precious Metals and Gem dealers locations and Pawnshops and /or check cashing locations.

*Presented by Bradford D. Townsend, Planning and Zoning Director*

5. RZ10-09 Proposed initiation of a text amendment to the zoning ordinance regarding distance restrictions between Precious Metals and Gem dealers locations and Pawnshops and /or check cashing locations. Councilmember Price introduced this item. Planning and Zoning Director Brad Townsend presented this proposed text amendment initiation and noted it was requested by Mayor and Council during committee discussion. Mr. Townsend stated this initiation of the proposed text amendment would provide a separation of a minimum of five thousand (5,000) feet between pawn shops, check cashing locations and precious metals and gem dealer locations. The limitation would be similar to that placed on pawn shops and check cashing locations. Staff recommended approval of this initiation. Mr. Townsend noted that that if this initiation is approved, it would be advertised, reviewed by the Planning Commission, and brought back for Mayor and Council approval of the first reading of the text amendment.

*Council questions:*

Councilmember Dippolito asked "Mr. Townsend, is this an extension of the pawn shop ordinance or is it a separate ordinance, and we are just including those in the distance requirement." Mr. Townsend replied "The Precious Metals and Gems under Chapter 10.8.2, is separate from the pawn shop separation requirement."

Councilmember Dippolito asked if the same distance requirement was being used. Mr. Townsend replied yes. Councilmember Dippolito said "So, we are using the same distance requirement, plus we are not just saying 'gem dealer to gem dealer.' We are also throwing in adding in pawn shops, check cashing, so forth." Mr.

Townsend replied yes.

Mayor Wood called for the motion. Councilmember Price stated "I know the reason this all came up in the first place was because we were surprised that Council had to act upon a precious metals and gem application and we noticed that the bond was excessive and that it couldn't be administratively handled, that has morphed into this particular new text amendment. I don't feel like I can move to approve that."

Mayor Wood asked if anyone else wished to make a motion.

Motion: Councilmember Dippolito moved to approve RZ10-09, Proposed initiation of a text amendment to the zoning ordinance regarding distance restrictions between Precious Metals and Gem dealers locations and Pawnshops and /or check cashing locations. Councilmember Diamond seconded.

Public comment:

Zane Goodwin (no address provided), said he did not clearly understand whether Council was changing the distance downward from 5,000 feet. Mayor Wood explained that at this time, there is no distance limitation between precious metals and gem dealers; this proposed text amendment would impose a 5,000 foot limit between one store and the next.

Further Council discussion:

Councilmember Price stated "Because we have combined it with pawn shops, effectively it means, this is the last gem and metals business that will ever be permitted in Roswell." Mayor Wood replied "It has to be 5,000 feet from a pawn shop or cash checking location." Councilmember Price added "We are done with metal and gem shops." No further discussion.

The motion to initiate the text amendment passed 3:1. Councilmember Diamond, Councilmember Dippolito, and Councilmember Wynn voted in favor. Councilmember Price was opposed.

**A motion was made by Council Member Rich Dippolito, seconded by Council Member Nancy Diamond, that this Item be Approved. Council Member Dippolito, Council Member Diamond, and Council Member Wynn voted in favor. Council Member Price voted in opposition.**  
The motion carried by the following vote:

In Favor: 3

Opposed: 1

6.

**Approval of a Resolution to amend the Opportunity Zone boundary map for the purpose of adding additional properties to the Opportunity Zone.**

*Presented by Alice Wakefield, Director*

6. Approval of a Resolution to amend the Opportunity Zone boundary map for the purpose of adding additional properties to the Opportunity Zone.

Councilmember Price introduced this item. Alice Wakefield, Director of Community Development stated that if approved, this resolution will be brought forward to the Department of Community Affairs (DCA) to request an expansion of the Opportunity Zone Boundary. Ms. Wakefield displayed the Opportunity Zone map and explained there are four properties for this consideration: the Roswell Mill property, Holcomb Woods, 972 Alpharetta Street, and Old Ellis Road Industrial. The Roswell Mill

property is located in historic Roswell; it is showing signs of economic disinvestment and repairs needed that are a blighting influence. The Holcomb Woods property is currently zoned C-3, with a small section that is zoned O-P; this property includes the Holcomb Woods Business Park, which is a "Class C" office complex, and the Home Depot shopping center that includes Dunkin Donuts. The property, 972 Alpharetta Street, is the old Smith Memorial Library building; this building has been renovated several times but for the most part has remained vacant. Ms. Wakefield noted that given the historic significance of that property, staff would like it to be included. The Old Ellis Road Industrial area is predominately zoned I-1C, with some R-1, which is currently vacant but is surrounded by industrial and commercial uses; the properties included warehouses, light industrial, and "Class C" office building.

Mayor Wood said he only had a question regarding the old library property; "It is sort of a fine line between why that is included and the adjacent properties are not." Ms. Wakefield stated this is an incentive for someone to go in and reuse this property. She reiterated that it has been renovated several times but for the most part it has remained vacant and is of historic significance. Mayor Wood replied "That would be a hard sell for me. I like would like to include the entire City of Roswell in this."

Councilmember Diamond asked if this is just the city's request, that DCA has the final word. Ms. Wakefield replied that was correct.

Motion: Councilmember Price moved for Approval of a Resolution to amend the Opportunity Zone boundary map for the purpose of adding additional properties to the Opportunity Zone, as presented this evening. Councilmember Wynn seconded. No public comments. No further discussion. The motion passed unanimously.

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

**In Favor: 4**

Enactment No: RES 2010-02-05; RES 2010-10-47

7. **Approval of an ordinance to amend Article 14.3, Special Events, of the Code of Ordinances of the City of Roswell.  
(Second Reading)**

***Presented by Alice Wakefield, Director of Community Development***

7. *Approval of an ordinance to amend Article 14.3, Special Events, of the Code of Ordinances of the City of Roswell. (Second Reading)*  
Councilmember Price introduced this item. Alice Wakefield, Director of Community Development stated this would be the second reading of this proposed text amendment. On August 9, 2010, Mayor and Council approved the first reading with changes. Ms. Wakefield explained that this ordinance is part of an overall revamping of the Special Events Policy. Those changes were presented and agreed upon and include the changing of the fee structure to include two tiers. Tier one is \$150 for those events using city resources; tier two is \$50 for events that make no use of city resources. Ms. Wakefield noted that approval of these fee structure changes, related to applications for special events, would be next on this meeting agenda for Council consideration. Ms. Wakefield stated that on the first reading, the City Administrator would have the ability to waive the application fee for fund raising for charitable events. Mayor and Council agreed, at the first reading, that the authority to waive the application fee would remain the authority of the Mayor. Ms. Wakefield stated staff

*recommended changing the deadline; "Instead of the sixty days in advance, we would allow events to apply one year in advance but no later than ninety (90) days for those events using city resources. All other events would be encouraged to apply within ninety (90) days." Ms. Wakefield also stated "There was an agreement that the sponsorship for nonprofit events would remain at \$3,000 annually; and for schools, it would be \$500 annually." Ms. Wakefield noted this ordinance deals with the permit application fee; basically, it removes the language referencing the application fee and maintains the language allowing the Mayor or his designee to waive the application fee. Staff recommends approval of the resolution.*

*City Attorney David Davidson conducted the second reading of AN ORDINANCE TO AMEND ARTICLE 14.3 SPECIAL EVENTS OF THE CODE OF ORDINANCES OF THE CITY OF ROSWELL, GEORGIA stating: PURSUANT TO THEIR AUTHORITY, the Mayor and Council of the City of Roswell, Georgia, do hereby adopt the following Ordinance:*

*1.*

*Section 14.3.4 Permit Application and Fee is hereby deleted in its entirety to be replaced by the following:*

*Section 14.3.4 Permit Application and Fee*

*An application for a special event permit shall be submitted to the community development department with a nonrefundable payment based on the fee structure established by the City of Roswell. Upon written request and submittal of appropriate documentation, the Mayor or his/her designee may waive the application fee for fundraising for charitable events if he/she determines that such fee is overly burdensome and does not promote the general welfare of the city.*

*The following information shall be provided:*

- (a) Purpose of the special event;*
- (b) Name, address and telephone number of sponsoring organization or individual;*
- (c) Proposed date, location and hours of operation;*
- (d) Schedule of proposed events;*
- (e) Projected attendance at the event, plan for parking, plan for restroom facilities and sanitation concerns; and*

*2.*

*All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.*

*3.*

*Severability. Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.*

*It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Roswell, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.*

*This Ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.*

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

*Council questions:*

*Councilmember Price inquired if the special events chart included in the packet was part of the ordinance. Ms. Wakefield explained that the chart, with the exception of*

eliminating the reference to the application fee and who has the authority to waive that application fee, includes all other items mentioned. Ms. Wakefield stated staff also has five approved race routes developed by the Roswell Department of Transportation and the Roswell Police Department. Two of these are 10k routes which include Riverside Road to Eves Road and Market Boulevard to Eves Road. Race route #3 is in mid-town Roswell which encompasses or circles City Hall along Warsaw Road, Grimes Bridge, Oxbo Road and up Highway 9. Race route #4 is a northerly 5k route between Etris Road and King Road and Hardscrabble Road. Race route #5 includes Crabapple Road, Hardscrabble Road, and Chaffin Road. Ms. Wakefield stated these routes will be offered to applicants as a way to assist and identify routes but applicants would still have the ability to pre-determine their own routes.

Councilmember Dippolito asked if the routes were really a suggestion; other routes would be considered if an applicant felt strongly about a different race route. Ms. Wakefield replied yes.

Councilmember Price asked what would be required to change the ordinance if the events package or any other details change. Ms. Wakefield replied the ordinance should not have to be amended in the near future unless there is something within that needs changing; for example, if staff wants to add a route or change one of the predetermined routes and that would be handled administratively. City Administrator Kay Love said this traditionally has been a procedure that has been established at the administrative level; as staff sees that changes need to be made such as a route or a suggestion of filling out the form or what the form may look like, it would be done at staff level in order to facilitate the process. She stated that since staff was revamping it in its entirety, the application packet became a part of the Mayor and Council review; traditionally, these types of detailed items have not been brought back to Council but if that is desired it certainly would be done. Councilmember Price asked what substantive differences are in this ordinance for its second reading. Ms. Wakefield replied the difference is the first sentence which references a nonrefundable payment of \$100 no later than sixty (60) days prior to the proposed event which further states: 'Upon written request and submittal of appropriate documentation, the Mayor may waive the \$100 payment for fund raising for a charitable event.' The proposed ordinance is to take the references to the dollar amount out and also to take the references to the deadline out. Councilmember Price stated all of the changes are in the events package; she asked if there are changes would they come before Council. Ms. Wakefield replied it would be handled administratively but it would be brought back to Council for committee discussion should staff need to conduct a significant revamping of the program.

*Motion:* Councilmember Price moved for Approval of an ordinance to amend Article 14.3, Special Events, of the Code of Ordinances of the City of Roswell. (Second Reading). Councilmember Diamond seconded.

*Public comment:*

Lynn McIntyre, 2210 Steeplechase Lane, inquired if there is a request for all applications from non-profits to be submitted simultaneously for the entire year, specifically, the Chattahoochee Nature Center (CNC) and whether the application is ready for submittals. Ms. Wakefield replied that should Council approve this second reading of the ordinance, the revised application would be available the next business day and applicants could begin to submit their applications one year in advance of their event. Ms. McIntyre asked about the ninety-day deadline because their events start with February. She also asked if the CNC race route along the river would be an exception to the suggested routes. Councilmember Price explained that the idea behind the set routes is for predictability related to city services provided and the



*personnel required to cover that route and also so the entity will know the cost for doing the event, but in the case of the CNC, the city knows that it is different. No further discussion.*

*Vote: The motion passed unanimously.*

**A motion was made by Council Member Betty Price, seconded by Council Member Nancy Diamond, that this Item be Approved on Second Reading. The motion carried by the following vote:**

**In Favor: 4**

Enactment No: ORD 2010-10-16

**8.**

**Approval of a Resolution to establish application fee related to applications for special events.**

*Presented by Alice Wakefield, Director*

*8. Approval of a Resolution to establish application fee related to applications for special events*

*Councilmember Price introduced this item. Alice Wakefield, Director of Community Development stated this resolution establishes the application fee for special events. The fee as proposed within this resolution is \$150 for events that use City of Roswell resources, and \$50 for events that make no use of City of Roswell resources.*

*Motion: Councilmember Price moved for Approval of a Resolution to establish application fee related to applications for special events. Councilmember Dippolito seconded. No public comments made. No further discussion. The motion passed unanimously.*

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

**In Favor: 4**

Enactment No: RES 2010-10-48

**City Attorney's Report****9. Recommendation for closure to discuss personnel.**

*Motion: Councilmember Wynn moved to approve the recommendation for closure. Councilmember Diamond seconded. The motion passed unanimously.*

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

**In Favor: 4**

**ADDENDUM TO AGENDA****Mayor's Report****Reading of a Proclamation for Dream House for Medically Fragile Children, Inc.***Mayor's Report*

*Reading of a Proclamation for Dream House for Medically Fragile Children, Inc. Mayor Wood conducted the reading of the proclamation recognizing Dream House for Medically Fragile Children, Inc., an organization founded in 2001 by pediatric nurse Laura Moore. Since then, more than 1,000 children and their families in 50 Georgia counties and nine states have benefited from the care and services provided by their staff of professional medical volunteers. The Mayor recognized Roswell Police Lt. Bill Anastasio for his efforts in organizing the Second Annual Tristan's Dice Run Motorcycle Ride to be held on October 24, 2010, benefitting Dream House for Medically Fragile Children, Inc. The Mayor also recognized Captain Herb Emory, Atlanta radio spokesperson who monitors traffic. Lt. Anastasio and Mr. Emory presented a \$625 check to Dream House from proceeds from Tristan's lunch held September 21, 2010 at Veranda Restaurant in Roswell.*

**Mayor Wood read the proclamation, recognizing the organization's dedication and contribution to the community.**

**Adjournment**

*After no further business, the Mayor and Council Meeting adjourned at 8:43 p.m. for a work session discussion regarding the North Fulton Comprehensive Transportation Plan; and Storm Water Utility. Closure followed the work session.*