

Meeting of the Mayor and City Council, Monday, August 13, 2012, 7:00 p.m., Mayor Jere Wood presiding.

Councilmembers Present: Councilmember Betty Price; Councilmember Nancy Diamond; Councilmember Rich Dippolito; Councilmember Kent Igleheart; Councilmember Jerry Orland; Councilmember Becky Wynn.

Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Police Chief Dwayne Orrick; Fire Chief Ricky Spencer; Human Resources Director Dan Roach; Community Development Director Alice Wakefield; Planning and Zoning Director Brad Townsend; City Planner Jackie Deibel; Planner I Courtney Lankford; Economic Development Manager Bill Keir; Community Development Program Manager Stefanie Dye; Environmental/Public Works Director Stuart Moring; Environmental/Public Works Deputy Director Mark Wolff; Finance Director Keith Lee; Recreation and Parks Director Joe Glover; Recreation, Parks, Historic and Cultural Affairs Assistant Director Morgan Rodgers; Historic and Cultural Affairs Manager Morgan Timmis; Transportation Director Steve Acenbrak; Transportation Deputy Director David Low; Transportation Land Development Manager Clyde Stricklin; Mayor's Executive Assistant Robyn Kenner; Community Relations Coordinator Kimberly Johnson; Community Relations Digital Media Designer Joel Vazquez; Building Operations Specialist Andy Hale; City Clerk Marlee Press.

Welcome – Mayor Jere Wood called the meeting to order and welcomed everyone present.

Pledge of Allegiance: World Harvest Church

Consent Agenda:

1. Approval of July 9, 2012 Mayor and Council Meeting minutes (detailed minutes to replace Council Brief minutes adopted on July 23, 2012); Approval of July 23, 2012 Mayor and Council Meeting minutes; Approval of July 30, 2012 Open Forum Meeting Brief; Approval of July 30, 2012 Special Called Mayor and Council Meeting Brief; Approval of August 6, 2012 Special Called Mayor and Council Meeting Brief.

Administration

2. Approval of City Sponsorship for the Rise N Run 5k on September 8, 2012.

Community Development

3. Approval of City Sponsorship for the Night Challenge 5k on September 22, 2012.

Community Development

Motion: Councilmember Price moved for approval of the Consent Agenda. Councilmember Orland seconded. Public comment invited. No comments were made. The motion passed unanimously.

Regular Agenda:

Mayor's Report

1. Presentation of the SWAT truck donated by the World Harvest Church to the City of Roswell.

Pastor Hufton, Pastor, World Harvest Church, stated it was their privilege and honor to work with the Roswell Police Department and Roswell Police Officers Zach Frommer and Trevor Primo who had the initial vision for a SWAT truck using a donated bread truck. Pastor Hufton

explained that during a presentation made by the Roswell SWAT team at the World Harvest Church, he noticed that they did not have a truck or vehicle to carry their equipment in. Pastor Hufton said he offered to help obtain a SWAT truck. The World Harvest Church raised approximately \$25,000. These funds were given to Zach Rolan, a World Harvest Church member who does recreation vehicles and SWAT truck conversions. Mr. Rolan said approximately 1,600 hours of labor went into converting the bread truck to a SWAT truck; over one mile of wire, 1,300 pounds of metal, and approximately 3,000 feet of lumber were used. He stated this job would normally have cost \$100,000. Mr. Rolan stated it was his honor to give back through donating the labor for this truck conversion in support of the Roswell Police Department and all they do daily to protect our community.

Chief of Police, Dwayne Orrick presented a certificate of appreciation to World Harvest Church and to Pastor Hufton. A certificate of appreciation was also presented to Zach Rolan. Chief Orrick noted that he thought the estimated cost of the vehicle conversion was probably closer to \$150,000 to \$175,000. Chief Orrick clarified that the entire cost was covered by World Harvest Church. Chief Orrick noted that Mr. Rolan did a fantastic job, including LED lights and generators.

Mayor Wood pointed out that this is considered a North Fulton SWAT truck to be used by the North Fulton SWAT Team which includes the cities of Roswell, Alpharetta and Milton. The Mayor asked Chief Orrick to explain what the team is about. Chief Orrick noted that each city has its own SWAT team. The City of Roswell wanted to pull the teams together and pool the resources; it is now approximately a forty man team. He stated national statistics show that any time there is a SWAT call about one-third of the officers will not be available because they will be off duty, out of town, on duty, or on another call. This provides the latitude to pool resources from all the North Fulton cities. The North Metro SWAT Team, comprised of Sandy Springs, Johns Creek, and Dunwoody, is pooling resources and trying to develop intergovernmental agreements to pool resources for big events. Sandy Springs recently had an event where two hostage situations occurred simultaneously and called for additional teams. This past weekend they asked again for help. Chief Orrick said this is an idea for all the North Fulton regional agencies working together in a more collaborative way.

Chief Orrick expressed his appreciation again to World Harvest Church, Pastor Hufton, and Zach Rolan for their help.

2. Recognition of SharpShooters USA for their "Keep Our K9's Kool" fundraiser.

Chief Orrick called Tom Deets, representative for SharpShooters USA to the podium and stated that Tom Deets has been a great partner for the Roswell Police Department and other area agencies. Chief Orrick noted that last month SharpShooters USA and Tom Deets sponsored the fund raising event "Keep Our K9's Kool" to provide state of the art heat alarms for all K9 units in the Roswell and Alpharetta Police Departments. These alarm units in the police cars will provide cell phone notification to the responsible officer's cell phone, alerting him that his car is reaching a dangerous temperature and it will automatically lower the car windows for the dog's safety. The unit will also notify a second, third, and fourth person until someone activates a response to the alarm. In addition, this alarm has a smart phone app to remotely check the temperature in the car. Chief Orrick expressed his appreciation to Mr. Deets and SharpShooters USA for their generous donation of this equipment in both cities; the costs are approximately \$2,000 per vehicle.

Administration and Finance Department - Councilmember Rich Dippolito

3. Approval of a Resolution to call for a Bond Referendum.

Mayor Wood instructed the City Attorney to read the call for a bond referendum. City Attorney David Davidson stated this would be approval of a Resolution to call for a Bond Referendum. If approved, this item will be on the November 6, 2012 General Election ballot, and will authorize the City of Roswell to issue up to \$24M in General Obligation Bonds for the purposes of Public Safety, Infrastructure Improvements, and Recreation and Parks and Cultural Affairs.

Mayor Wood called for a discussion by Council for a potential list and potential timing and what the referendum would look like. The Mayor said he would first call upon Councilmember Dippolito who is the liaison to the Administration department, under which this item falls.

Council Discussion:

Councilmember Dippolito stated Keith Lee, Director of Finance and Strategic Budgeting, would describe the project list with a presentation. Mr. Lee stated he would present to Mayor and Council the list that was worked through at the August 6, 2012 Work Session, also an additional option which had come up over the past few days, and then provide what the finances look like for either one of those options.

To begin, Mr. Lee presented the consensus list from the August 6, 2012 Work Session. The projects include Fire Station #4 replacement; this would be the fire station on Holcomb Bridge Road. Improvements to Holcomb Bridge Road at Rt. 400 includes four separate items, including ramp improvements, beautification, and west bound lanes. The Adult Recreation Center includes expansion of the existing facility including a therapeutic pool. The Cultural Arts Center is an expansion of the existing facility to include a black box theatre with 165 seats. Synthetic turf fields; these are three additional fields at East Roswell Park, Roswell Area Park, and Waller Park. Also included are Economic development projects for \$5.4M. This particular bond list is \$24M.

Mr. Lee stated those projects were divided into what was considered three separate buckets. Those are three items that are in the resolution provided to Mayor and Council. This includes infrastructure improvements, which apply to Transportation, Public Works, including land design, development infrastructure and facilities. Recreation, Parks, and Cultural Affairs includes park facilities, fields, cultural arts facilities, furniture, fixtures, and equipment. Public Safety Fire Bonds includes acquisition of real or personal property, design and development of a fire station together with furniture, fixtures, and related equipment.

Mr. Lee referring to the presentation, stated the bucket related to infrastructure improvements is \$11.4M; Recreation is \$11.1M; Public Safety is \$1.5M. He presented the option that was discussed last Monday. Over the course of the week, a second list has emerged which Councilmember Dippolito has been working on. In terms of this project, it includes Fire Station #4; Holcomb Bridge Road at Rt. 400; Eaves Road multi-use bike and path lanes from Holcomb Bridge Road to Riverside Road on Eaves Road; Holcomb Bridge Road Multi-use Trail from Steeple Chase Road to Holcomb Bridge Middle School; the Adult Recreation Center; synthetic turf fields. Mr. Lee stated this list is for \$14.7M. Two items that were removed from the previous list include the Cultural Arts Center and the anchor project.

Mr. Lee stated that using the same buckets, the amounts come to \$8.7M for infrastructure improvements; \$4.5M for Recreation, Parks and Cultural Affairs; \$1.5M for Public Safety or Fire Bonds. Mr. Lee showed the list of items that the City would issue bonds for construction or work for. He stated he had been asked to look at the fund balance and projects that are outstanding

which the City has already committed some one-time capital funding toward. Mr. Lee presented the list. He stated some preliminary estimate for the City's radio system improvements is \$4M. Short range projects include Mid-Town Gap; SR 120 Trail Red Loop; SR 120 Side Path; Eaves Road Multi-Use Path; Holcomb Bridge Road Multi-Use Trail; and Sun Valley Warsaw Connector, should it fail to make the first list, for a total of \$6.55M. Some of the City's long range plans include Oxbo Road Realignment, \$6M; The Gateway at \$17.5M; and Big Creek Bridge and Parkway at \$51M. Mr. Lee stated this is a total of \$74.5M. He stated total funding needs are \$85.05M. He estimates that the City's General Fund Balance above policy is \$10,595,000.

Mr. Lee said using the prior estimates from GDOT of an eighty percent match on long range projects, the City could potentially see \$59.6M, meaning the City has the potential for \$70,195,000. This would leave the City short of approximately \$15M for long range plans.

Mr. Lee said for the City's \$24M issue, the City has discussed that this bond would be issued in two separate bonds. The first would be in 2013, the second in 2015. He displayed the total use of funds which would be \$12,168,442 in 2013. That is estimated based on a true interest cost of 1.591%, with an annual debt service of \$1,362,000. In 2015, the City would issue a second \$12M bond. That is estimated at 3.183% for true interest costs, a fifteen year term for the second issue, with an annual debt service of \$1,046,000.

Mayor Wood stated under Plan B there was a proposal for \$14M. The Mayor asked for an explanation how that would work with this \$24M scenario and if it is now \$14M or is there another issue later.

Mr. Lee replied, "For the \$14M issue, we would propose to do two separate issues in a shorter time frame than two years. One of \$10M and one of \$4.7M. I believe this has been referred to as the initial phase such that we can develop additional projects or vet the projects. I think Councilmember Dippolito can expand on that idea."

Councilmember Dippolito replied, "Mr. Lee, you can probably explain this better than I can, but the purpose of splitting it into two versus doing a \$14.7M issuance, is that we can use a bank qualified bond. Would you explain that."

Mr. Lee stated, "I have this on slide a little later, but under the RS regs, we can issue bank qualified bonds in an amount up to \$10M." Mayor Wood asked what is the advantage of a bank qualified bond. Mr. Lee stated the basic advantage of bank qualified bonds is a lower interest rate. Mayor Wood asked as opposed to what type of bonds. Mr. Lee replied, "At market bonds, if you will. Non-bank qualified." Mayor Wood replied that a bank qualified bond and it would be a lower interest rate and it is also a lower issuance cost. Mr. Lee replied, "Potentially lower." Mayor Wood stated it would be possible to get to the same place, less costly, as a bank qualified, if we go with two less than \$10M issues. Mayor Wood asked if the City went with the \$14M, how would that be scheduled. Mr. Lee replied, "For 2013 and 2014, I am proposing that we could do \$10M on the calendar year. The first issue would be \$10,003,000. That would be at a 1.418 interest rate or true interest cost. If we have a referendum in November, we could have this in March of next year. Then, the following January in 2014, we could access the remaining funds of \$4.7M at what has been estimated at 1.407 true interest cost." Mayor Wood asked if the City does the \$14M or the \$24M, what would be the impact on the total millage rate, the operating and debt service millage rate; the millage rate for the taxpayers. Mr. Lee replied, "The interest rate is going to remain at 5.455, it does not change." Mayor Wood said the citizens will be concerned as

to what would happen to their tax or millage rate. Mr. Lee stated it would not change; they would pay the same tax. Mayor Wood clarified that the City is anticipating that either the \$14M or the \$24M could be done without a millage rate increase. Mr. Lee stated that was correct.

Councilmember Dippolito stated one of the reasons for shifting from a \$24M issuance to a \$14M issuance was that there was not complete agreement during the work session on August 6, 2012, regarding project lists. There were a couple of projects somewhat still undefined. One being the anchor project or Economic Development project that we would like to embark on and the other is the Cultural Arts Center which could be part of some sort of a Master Plan Development that could occur around City Hall. Those items are very undefined and are conceptual ideas. Councilmember Dippolito said there was the thought that they were getting too far ahead and decided to pull those. Councilmember Dippolito said that was his suggestion but it had not yet been voted upon by Council. He clarified that his suggestion was to stick with a group of projects that has been fully vetted by the community. Each of the items on the project list has been brought to the public, individually and also as part of the bond referendum public meetings. They have been out to the public twice for comment and there has been support on all of these projects. He said he thought there has been initial funding from a design standpoint. They are projects which are somewhat moving forward and perfect candidates for a bond.

Council Comments:

Councilmember Price stated Mr. Lee had stated there would be no change in taxes regardless if we did the \$24M or \$14M. She said at some point there must be a shortfall to make up somewhere. Mr. Lee replied, "For the \$24M we would be moving millage rate from debt service, or for the \$14.7, to the General Fund Maintenance and Operating (M&O), such that we can institute or do a pay as you go capital program with that additional millage rate."

Councilmember Dippolito requested Mr. Lee display the slide relating to that effect. Mr. Lee stated "This would be the millage rate for the \$24M. This millage rate is built based on when we would issue bonds and the point in time that we would begin our debt service. In 2014, our debt service would move from 1.396 to .945 and then .322, and then .56. The point .56 supports both issues, both the first \$12M issue in 2013, as well as the \$12M issue in 2015. The 2013 issue is a ten year term; the 2014 issue is a fifteen year term."

Mayor Wood for clarification, stated, "The reason we can do this, as I understand this, is we are paying off current debt so the current debt service will go down. In essence, we are eliminating current debt service; we are taking on new debt service but at a lower level so that we can actually anticipate some costs increases in the General Fund and still maintain some debt at a less level." Mr. Lee stated that is the case. Mayor Wood replied, "So, we believe on conservative projections, that we can issue up to \$24M in new debt, and maintain the same debt rate because we are on the verge of paying off existing debt." Mr. Lee replied, "Yes sir. We have paid off the fees on our 2002 Bonds and we have two additional years on our 2008 Bonds."

Councilmember Igleheart stated he wanted to clarify that because that was how he sees it, "We are replacing debt that we are currently paying off. We still have to make that decision in the future if there is a switch between the Debt Service and the M&O because I am not sure that I support that. I want to make clear we are not doing that in this, we are dealing with what is being paid off." Mr. Lee replied that is correct; that would be a separate vote by Mayor and Council.

Mayor Wood replied, "The Debt Service millage rate is going to be defined by what the debt is. We are going to have to cover that." Mr. Lee stated that is correct. The Mayor said what is done

with the overall General Fund millage rate is subject to a vote every year, but once we incur the debt there is not the option of changing what it is going to cost to pay it off. Mr. Lee agreed. Councilmember Igleheart stated that is correct but it does impact what that millage rate needs to be because it is already covered in what is existing Debt Service millage rate. Mr. Lee stated he did not follow that. Councilmember Igleheart stated, "We do not have to increase or decrease that amount on the Debt Service because it is already in what is in our current millage rate and it will be paid out of what is already assigned in that amount of a Debt Service." Mr. Lee replied, "In terms of the overall millage rate, it remains 5.455. The percentage that is related to debt will actually go down." Councilmember Igleheart stated, "Correct, but it is within what is currently designated as being debt service." Mr. Lee agreed. Councilmember Igleheart stated that is not changing the rest of the millage rate at this time. Mr. Lee stated that was correct.

Councilmember Dippolito referring to the chart displayed, said the current fiscal year, 2013, it shows there is 1.396 dedicated specifically to debt service. The blue section is maintenance and operating; in subsequent years, the yellow is the new debt service payment. There is additional amount available for either maintenance and operating or additional capital projects. That is the discussion that Councilmember Igleheart referred to; there will be money left that will require a decision if it goes into a capital reserve or into operating. Councilmember Dippolito noted that Council has not yet held that discussion.

Motion: Councilmember Dippolito moved for **Approval of a Resolution to call for a Bond Referendum in the amount of \$14.7M; in the amounts: \$8.7M dedicated to infrastructure improvements; \$4.5M dedicated to Recreation, Parks and Cultural Affairs; and \$1.5M dedicated to Public Safety. This referendum to occur in the General Election in November 2012.** Councilmember Wynn seconded.

Council Comment:

Councilmember Price asked if there are specific projects attached to the "buckets with numbers attached to them." Mayor Wood requested the project list be displayed. When the project list was displayed, Mayor Wood stated that is the specific project list. Councilmember Price replied, "If this passes, that is not how it would be on the ballot, so if someone sees the bucket description, how will they know where it is going." Mayor Wood asked City Attorney David Davidson to respond. Mr. Davidson replied that the actual question that would be on the ballot will be much broader and would cover basically all the "buckets in one question." He said it would not be project specific but it would be for those purposes.

Mayor Wood stated he could not make an amendment but he would like to see a proposed modification that three votes would be cast. Mayor Wood said, "The last bond issue that we did with the City of Roswell, there were actually two questions on the ballot; do you approve \$30M for Parks and about \$2M for Public Safety. Both of those were cast with almost a ninety percent approval rating. We gave the citizens the option to not just choose to do one bond issue, but we gave them those choices. The issue before that was also broken down into questions. Bill Johnson was the gentleman who recommended that we do that and we were successful. I would like to see this Council vote on this to say so much, \$8.7M for Transportation, \$4.5M for Recreation and \$1.5M for Public Safety and give you the citizens the option to vote for all or vote for none or pick and choose. I believe that is respecting your decision as a voter giving you a say in what to do." Mayor Wood suggested Council vote in categories. It would ensure that it is spent in categories.

Councilmember Price said the previous list that Councilmember Dippolito presented did not have the Cultural Arts Center on it however, this "bucket" does. She said there is a "disconnect" between the buckets and the specific list that Councilmember Dippolito presented at this meeting.

Councilmember Dippolito stated "That can be removed from this bucket. I think when we get the finally wording put together for the referendum it will be consistent with the project list. For purposes of presentation, that was left in here, inadvertently." Mr. Lee stated, "The title could change to Recreation and Parks for that particular bucket."

Mayor Wood said as he understood it currently, the motion is to approve a bond issue for \$14.7M, to be voted on in November, to include the projects listed. The Mayor asked the City Attorney to explain how binding the project list is and how it effects how the money can be spent. Mr. Davidson replied, "This project list, it would be up to Council how to spend the money in this manner. However, the question that would be asked on the actual issuance would be broader than this. Sometimes there might be left over money. It might not be this actual dollar amount but it would be spent in the same categories. If the fire station came in at 1.3 we would still have to use it for Public Safety issuance. It would still be a fire station. That is how it is worded on the actual question." Mayor Wood asked if the actual question would be one vote in three categories, and if there was money left over from Public Safety it would have to be spent in Public Safety. Mr. Davidson replied if there are three separate questions; if there was one question, it could be used for any of the Public Safety, Transportation, or Recreation items. Mayor Wood replied, "So if there is one question, you could take money from Transportation to put into Cultural Arts and money from Cultural Arts and put into Transportation." Mr. Davidson replied, "If Cultural Arts was included but it would take a vote of Council." Mayor Wood replied, "Or Recreation. You could move money from Recreation to Transportation, it is voted on as one category." Mr. Davidson agreed.

Councilmember Dippolito stated, "My motion was to word the referendum so that each of those categories has a specific dollar amounts. Is that something that is possible within this referendum?" Mayor Wood clarified that question would go to City Attorney David Davidson rather than the Mayor. City Attorney David Davidson replied, "You would be severely limiting your ability to do anything other than you would be forced to spend \$1.5M on a fire station, furniture and equipment. Or, you could use that money to pay off the bond if there is money left over. You could word it directly that way. It would be very limiting on the City's ability to do it, but you could." Councilmember Dippolito replied that the discussions had as a Council is to allocate those dollar amounts to each of these "buckets." He said there is a comfort level that Council plans on spending those amounts in those areas. The wording could be broad enough so that if the fire station is completed, it could be spent for Public Safety. He said he did not want to have a significant amount of funds moved from Public Safety to another purpose. He asked if that could be accomplished. City Attorney David Davidson stated he would have to work on the wording, but it probably could be accomplished.

City Administrator Kay Love referring to City Attorney David Davidson's point, said the resolution that would be approved has the "buckets" with those dollar amounts whereby Council could move money from category. She said Council's intent is stated in that resolution of the amount that is planned to spend in each bucket, at the beginning of the resolution. Ms. Love said, "The ballot question and related to how the Department of Justice approves that and we move through that process is a little separate and is broader for the reason that the City Attorney stated to allow us flexibility to not be bound in the event that we get really positive bids back and we do save money in one area. We could not move money around unless the Council makes an

approval to do that. That would not be something at the staff level or that any one individual Council member could do. We would have to come back related to projects." An example would be if a Transportation project bid came back lower, with those extra funds the project could be enhanced; the funding is still in that bucket of infrastructure. Ms. Love stated, "I am sure Mr. Davidson as talented as he is, could work the question but it makes it very cumbersome from the ballot question standpoint and moving through the Department of Justice." Councilmember Dippolito replied, "I think if we have it listed here on the resolution which I have a copy of, I think we are making a public commitment that there is where we are going to spend the funding on."

Mayor Wood suggesting making it simpler with three ballot questions and then it is a guarantee that it is going to be spent either on Public Safety and the money that goes to Public Safety is for Public Safety; the same for Transportation and the same for Recreation. If it goes on three ballot questions, then it is three different borrowings. Mayor Wood said he would encourage Council to consider that.

Councilmember Diamond said since she has been vocal on the Cultural Arts Center and the discussions she did not want anyone to think that some of the things that had been previously talked about are not still seriously considered. She said, "There has been some inspiration that has come from one of the plans that we had done recently that caused our staff to come up with some really interesting ideas about a project that could be a catalyst in our community and I think we all feel like we would like really vet that out and hopefully include a Cultural Arts component. There is just a whole lot that could happen as a part of that. While there may be things that are not on the list, it is very possible that they are in that mix and that it will be coming to you in months to come with some really interesting things for you to look at and give us feedback."

Councilmember Price expressed her concern that a number of the items are "wants and not really needs." She noted that as seen last week, the T-SPLOST vote failed, for a number of reasons, but not necessarily because there were items in there that would have helped Roswell that were not wanted. It was a total picture of voting that down. Those items in there that would have helped Roswell and that have been needed for a long time, South Atlanta Street and Holcomb Bridge Road at Rt. 400. She said she thought she ran on that three years ago. There is a lot of need at South Atlanta Street for commuters and a number of safety reasons. She said she was sorry to see that is not on the list. Councilmember Price noted that Councilmember Dippolito had added two other Transportation projects but if the referendum is so specific that if the trail segment only costs one million dollars, she said, "Could that project be enhanced with \$500,000 as opposed to putting it somewhere else where it is really needed and could be used. Especially since that vote last week, I hate to see us limit ourselves to what might have been more ancillary or lower down priority projects and not put them in the areas that we really, really need. I feel that this list has too many wants on here and not needs."

Councilmember Diamond replied, "I would like to clarify because one of the reasons that I understood we did not have the Gateway on there was because we were at the design end of right-of-way acquisition stage and that what was not looked upon as a good bond candidate. I guess much like this other, it is not that it is not on the list, it is just not ready. The bonds have to be spent within a certain amount of time and having some things that philosophically may not always be on your bond project list allows you to use other funds to do things that you might not be able to do. It is a matter of we have a total number of projects, a total number of resources and we are trying to maximize each one." She asked if she was correct on the design. Mr. Lee replied Councilmember Diamond was correct. He said we do not believe we are at a point to

where we could spend the 85% in a three year time frame. The majority of the work for that particular project would be intangible; there is no tangible that we can take to our rating agencies or to market.

Councilmember Dippolito noted that he had mentioned earlier that each of the projects have already been completely vetted through the public. There have also been design funds expended on these. These are projects we are moving forward with. Councilmember Dippolito said he is a full supporter of the Historic Gateway project. He said it is a project that was started while he was Transportation liaison and no one could support it more than he does, but that specific project is just not quite ready yet. Councilmember Dippolito noted there are some other good projects that are in the works. The reason for this list is to narrow it down to things that we can get started on immediately that we have already started expending funds on to get started.

Councilmember Price, in response to Councilmember Diamond's comment said, "In all three of these various possibilities for the wording in the referendum, they all include costs of acquisitions, design, and etcetera. So it sounds like that is not impossible to put that into the project. That to me is a little bit of a disconnect." She stated the items Councilmember Dippolito mentioned, which were in blue, were originally pushed out much farther in the second referendum. Councilmember Price said, "I wonder from him, what priorities he has placed on that or at what point would we put priorities on, which is in the first half the \$10M and is the second portion, the \$4.7."

Mayor Wood asked City Administrator Kay Love to respond to the technical question regarding what bond funding can be used for and how the rating agencies look at it. The Mayor said he would allow Councilmember Dippolito to respond afterward.

Ms. Love responding to Councilmember Price point regarding right-of-way acquisition, real property or design, stated that it is not that it cannot be, it is all about timing. The rating agencies and underwriters look at what plan the City has in place to be able to accomplish the project in the required amount of time so that we meet the spend down requirements. If the project is such that we can move from right-of-way into design or shovel ready with construction, it is much easier to sell that as a plan. Ms. Love said what could be done, and the reason this is in there, is that it allows the flexibility that should the timing of the project, any of those Transportation projects line up, that we spent from General Fund dollars for right-of-way acquisition or design, within eighteen (18) months of us issuing bonds, we could declare our intent up front under the treasury regulations and reimburse ourselves from bond proceeds; that is a very traditional way to do it. For the Gateway project, we are not in a position to do that. Ms. Love said that is why specifically for that one that we did not include it in this package of the \$14.7M.

Councilmember Dippolito said as he had mentioned earlier that some of the projects that were higher on the priority list when we went through our work session fell off because they were not at a point that they are ready to be placed on the bond. It was suggested to add these two projects because they are ready to go and in design and could be moved forward rather quickly. Councilmember Dippolito said it was a suggestion which he thought was good and they are on his proposed list.

Mayor Wood asked Councilmember Price to repeat her question. Councilmember Price asked which Councilmember Dippolito proposed to put in the first portion and which in the second. Mayor Wood stated he thought the question has to do with if whether the City does a \$10M and a \$4M how would you propose it be sorted out. Mayor Wood said the Holcomb Bridge, Rt. 400

improvements would not be ready for all \$6M in the first two years since there are GDOT requirements. He said it would be obvious when we can commit \$6M but the City would be lucky to spend \$2M within the first couple of years because it takes GDOT five years to approve anything. Mr. Lee said, "The 400 has four separate components so they could be broken into their individual pieces as we move forward with the bond issues." Councilmember Dippolito replied, "The reason for splitting the bond into two issues was in order to do a bank qualified bond and the maximum amount we are allowed to have each year is \$10M, so we split it. The first year would be \$10M and the second year would be the balance. That is the reason for splitting it otherwise we would just fund it all at once. We have not gotten to the level with staff to decide which one of these projects specifically would come first." Once they are all approved then staff can start working on a plan for spending those funds. He said they would essentially all get approved if this list is approved tonight, then they are all approved and then staff would work on which ones could be done most efficiently and start working on those immediately.

Mayor Wood said he thought City Administrator Kay Love had a better theory on how to time the borrowing and the expenditures; this is a new concept. Ms. Love replied, "You are absolutely right Councilmember Dippolito. That would be the staff's intent. What we had talked about before whether it was bank qualified or non-bank qualified, particularly on Holcomb Bridge Road is we would not be in a position to spend \$6M up front and we would issue in the first issue a portion thereof of approximately perhaps \$2M and we need to refine that exactly. On the second issue, issue the balance of them. Some of the other projects may also be split. The advantage, as mentioned in the bank qualified about the \$10M per calendar year, so it allows us from a cash flow standpoint to be able to better max those because we could issue toward the end of a calendar year and then at the beginning of a calendar year depending on when the projects were ready." She said that could be "sliced and diced" depending on the estimated requirements for the project but until the final project list is known, it cannot be determined in finality.

Public Comments:

Janet Russell, 260 Willow Springs Drive, stated in reference to the improvements of the historic gateway area and South Atlanta Street, said she wished to remind everyone that those improvements are not being made for the benefit of the commuters who pass through Roswell but for the benefit of the people who live in Roswell. Ms. Russell stated she attends many of the Mayor and Council meetings and also attended the work session last week. She thought that many of those in the audience tonight came for the bond issue. She noted that she attended many meetings regarding a water treatment plant in Roswell. She said there are 27,000 addresses in the City of Roswell and 22,000 receive water from Fulton County. The other approximate 5,700 addresses receive water from the City of Roswell. She said the water treatment plant has aged. She said "the City, about five years ago, proposed an eight million dollar bond to upgrade that to provide the 5,700 addresses with water, which currently costs us per thousand gallons more than the Fulton County water does." She said at the last meeting held at the Adult Rec Center, the price of that water treatment plan went from \$8M to \$16M. Ms. Russell stated Ms. Love stated the reason for the increase was because there had been "some adjustments and improvements." Ms. Russell stated Ms. Love noted that she was a resident of Roswell and received her water from Fulton County. Ms. Russell said she guessed that no one sitting on City Council except for one, receives their water from the City of Roswell. She said she has not seen any mention of a \$16M bond in addition to this one for the water treatment plant. Ms. Russell asked what is the status of \$16M in addition to this. Mayor Wood replied, "It is not part of this bond issue and we do not have time tonight to discuss the water issue. That would be discussed on another night. That water plant is not part of this bond issue." Ms. Russell said she thought that it is pertinent and

important when we start talking about \$10M, \$14M, \$24M that there is another \$16M bond that is going to come up and it will affect city taxes.

Mayor Wood stated the Council has imposed time limits on public comments. Ms. Love explained the five minute time limit rule.

Lee J. Howard, Chairman of the Roswell Cultural Arts Board, for clarification purposes noted that Councilmember Dippolito had mentioned several things "that he said he did not quite hear the same way." Mr. Howard said, "One was that there was an agreement on the projects that were removed and in fact, there were no unanimous projects that I got and all six City Council members did support the expansion of the Cultural Arts Center (CAC) at last Monday night's meeting." He said that it is really just a point of clarification. He said he understood that there is much opportunity with the Gateway Civic Square project. He pointed out that one of the things Councilmember Dippolito stated was that the projects that were moved were conceptual. Mr. Howard said the addition to the Cultural Arts Center is certainly not conceptual it is bricks and mortar. There is a plan there that would take a little bit of work to tweak and finalize it. He said all City Council has the opportunity to see it. Mr. Howard said the other comment that he wanted to clarify was that there was not an opportunity for public discourse. He said the Cultural Arts Center expansion was included, and all the bond referendum projects in the public discourse that the City made available late winter, early spring. Mr. Howard said he understands the big picture although he knows it is kind of vague as to what could be possible. He said he knows that all of Council and the Mayor support the expansion of the Cultural Arts Center and the arts, in general in Roswell. He pointed out that even with an entirely new performing arts center, the 165 seat proposed black box addition to the current CAC would provide much needed space for the City of Roswell and the growth we are looking for. The enhancements that are mentioned in the \$6.6M project are needed and have to come from somewhere to maintain the building and to improve it; it was not just the black box and all the other additions. He stated that even with the long range possibilities of whatever could happen in the Historic Gateway Plan, that will be a long way down the road and there will be a surrounding community that will surpass us in what they make available in the arts and their performance space if Roswell does not do something. Mr. Howard said he realizes that the Gateway Plan will be spoken about later during this meeting. Mr. Howard stated that he trusts Council to look at the big picture. He said he has been working on the CAC for nine years, but in terms of the big picture for Roswell, we are all committed to the same thing. He said that he felt strongly that putting in \$600,000 for the design phase would be quite prudent and asked that be done now; if that is not put in now, we would be way behind in terms of planning for the future.

Councilmember Dippolito for clarification purposes, stated that when he said some of the projects had not been fully vetted, that each one of the projects that had been discussed Monday night had been vetted through the bond referendum hearings, but not all of them had gone individually. The latest iterations of the CAC in particular, have not been seen by the public. He said that was the intention of his statement.

Lew Oliver, stated agreed with Councilmember Price that the Gateway project is of major significance. He said for a long time, there has been an expansion of Roswell in a suburban automotive fashion and Gateway is the first major project that we have all devoted ourselves to that will actually start to rebuild the core of the City which is vital to our future, attractiveness to new residents and new business. Mr. Oliver said he did not think that we need to ignore Gateway for too long. He said his second issue is the catalyst project in Roswell which a lot of people in Roswell have been working on for many years that have not articulated it such that it has really

manifested in one spot. Mr. Oliver said there has been talk of it and recently been some designs for the catalyst project which Transportation made a stab at recently in engineering and did a very masterful job at. He said this project can be the nucleus for the transformation of the City. He said Sandy Springs is on the band wagon as well as Norcross, Woodstock, and Mableton; Roswell is behind at this point. This project is necessary and needs to be funded. He said most of the project is actually on City property. The community has supported the idea for years. He asked what can be done to fast forward it.

Mayor Wood asked if Mr. Oliver was speaking of the Transportation design to create a new intersection in front of City Hall; this is planned for discussion on August 27, 2012 at a Council work session. The Mayor noted that there is a possibility that as far as design work if approved by Council that we can proceed from the General Fund. As the City Administrator had early noted, until there is actually a plan, the design is not really subject for these loan approvals. The Mayor said he is a strong supporter of Transportation's plan for this new project, but it remains to be seen how the Council will receive it during the work session. The Mayor clarified that if the Council chooses, we could proceed to fund the beginning of the design but it is too early to actually commit to a project before this Council has even seen what that project is.

Lee Fleck, Martins Landing, stated that at a previous meeting two weeks ago he agreed with Council regarding what caused the T-SPLIST to fail. He said the point was made that "our legislators were at fault for not taking on the responsibility and passing that responsibility of that vote on to the public." Mr. Fleck said the same was being done for this bond referendum. Mr. Fleck said he would display a pro-forma which is a financial analysis; the one he displayed was done in June 2008 by Mr. Lee's predecessor. At that time, it was projected that when the debt service was paid off, there would be additional revenues. Mr. Fleck pointed out the line that indicated revenues over expenses annually. Mr. Fleck said, "I contend that this \$14M is absolutely unnecessary." Mr. Fleck pointed out 2014 through 2017 and noted areas of excess revenues which had been projected in 2008. Mr. Fleck stated he understood that Council would say that a pro-forma is for just for discussion purposes. He said Debt Service and millage rates are pretty constant; the only thing that would change is the property values. Mr. Fleck said the July 15, 2009 minutes stated Mr. Lee's predecessor Mr. Erwin stated "In that 2014, at that point, the City pays off the debt and 1.396 mills is able to move over into Operating, giving a positive of \$5M a year." Mr. Fleck said, "The next year, FY 2011 we have the exact same picture again. This now is \$5.7M in excess revenues when they roll over the Debt Service millage rate. You heard tonight that the only one who objected to that was Mr. Igleheart. He expressed concerned about rolling over the millage rate into the O & M." Mr. Fleck said that "is where they take the Debt Service of 1.39 and instead of retiring it, they just keep it rolling and put it over into operating money and keep that money." Mr. Fleck pointed out a statement displayed referring to the year 2011 which said "Debt Service is paid off in 2014 and the Debt Service millage rate is redirected to the General Fund beginning in 2015." Mr. Fleck said that figure is \$5.7M. Mr. Fleck stated, "This year's budget, the one we are in now, Budget 2013, states the existing debt could be paid off in 2014, next year, using the fund balance to pay off the debt owed in 2013." Mr. Fleck said the City has enough money in reserves, an amount of \$6.7M, to pay off the debt all next year; the only debt that will be owed is \$4M in 2015. Mr. Fleck said those could be paid off next year. Mr. Fleck stated he wanted Mr. Lee to answer what the annualized cost is to pay off on that bond, and what the period of time would be. Mr. Fleck said, "I realize that the City takes in with the current Debt Service millage rate approximately \$6.3M. I guess that it is going to be maybe 1.5 mill, the less they are going to keep it. That is your taxes. In the first two or three years, they will get enough extra revenue to pay off everything that they propose here tonight on the \$14M bond."

Mr. Lee stated, "The \$14.7M bond issue, in two separate issues. The first issue with the Debt Service would be \$1,087,000 annually. The second issue would be \$520,000 annually. \$1.6M annually for fifteen (15) years."

Jake Lilley, Roswell Station, stated that he is principally against debt and would not vote for this bond. He wanted to challenge Council to work together to find an alternative solution for funding these projects and if it cannot be done, then have the courage to go on record and take an actual vote as the City's Council for or against this bond. He described what a democracy is versus a constitutional republic and stated this country was designed to be a constitutional republic. In a constitutional republic, representatives are elected by the people through a democratic process. These representatives are then entrusted to create public policy on behalf of the electorate and within the boundaries of the US and State Constitutions. In a constitutional republic, the election of representatives is a democratic process; the creation of public policy is not. He said our founders held democracy in contempt and saw it as a system in which the will of the majority would be imposed upon the rights of the minority. By contrast in a constitutional republic the rights of the minority are to be protected from the tyranny of the majority and within the boundaries of the Constitution. Mr. Lilley said the decision to take on \$15M worth of bond debt is too important to be left in the hands of politicians. He suggested that we elected Mayor and City Council to make exactly these types of decisions. The City Council was not hired to make easy decisions and there is no need to hire representation to work through issues where everyone is in agreement. City Council was hired to work through the difficult issues, develop solutions, and ultimately make tough decisions that might sometimes be unpopular. He noted that at the Rotary meeting last week, Stacy Abrahams, GA House Minority leader for the GA General Assembly, addressed this issue of representation when she responded to audience questions regarding T-SPLOST. Representative Abrahams explained that while she was in favor of the idea of T-SPLOST and ultimately voted for it, she actually voted against HB 277, the bill that authorized T-SPLOST to be placed on the July 31, 2012 ballot as a referendum. Mr. Lilley said he appreciated that she recognized her responsibility as an elected representative of her constituents to work through this issue on their behalf because that was the job she was hired to do. He said the State Legislature did not agree with Rep. Abrahams and as a result Georgia spent millions of dollars and thousands of man hours and more than a year of embroiled in a debate that divided the citizens of Georgia. He said lessons learned from T-SPLOST include voters have no appetite for new debt and new taxes. That presents a problem for those projects on the list that are worth funding. Mr. Lilley said the intent of this bond is fund a list of capital projects but when voters go to the polls in November, nobody is going to cast a vote for or against a project or a set of projects but will cast a vote for or against a \$15M bond. Mr. Lilley said he thought the City was taking a big gamble by putting the source of funding for these projects on the ballot as a referendum and that some good projects will be unfunded as a result. He said there would be a better chance of funding these projects if Council would look for alternative solutions, solutions that are not tied to bond initiative. Mr. Lilley said voters also rejected the idea that there is no Plan B. Council should have a Plan B. This Council has proven their ability to find creative solutions to tough issues as Council did when it tackled the issue of security for Roswell City Hall. Mr. Lilley said he thought Council would have a better chance of funding this if it was taken back to be worked out another way.

Mayor Wood clarified that Mr. Lilley had made the suggestion that perhaps Council should make the decision to borrow this money without taking it to a referendum. The Mayor asked City Attorney David Davidson if that is legally possible. Mr. Davidson explained that in order to issue bonds, it must be put out to the citizens for a vote. Mr. Lilley replied, "I am not suggesting

necessarily a bond.” Mayor Wood thanked Mr. Lilley and said he understood that ne was looking for other alternatives but he was not aware of any. The Mayor told Mr. Lilley that if he was aware of any other possibilities where money is available for these projects then he would like to know what they were. He said neither the state nor the federal government is giving money. The Mayor noted that World Harvest Church was very helpful in the bread truck conversion for a SWAT truck but he was not sure that every church, synagogue, mosque, and temple in Roswell pitched in that we would even get close. Mayor Wood said he did not know what that other creative alternative could be but was open to ideas.

Cade Thacker, Bristol Oaks, stated, “If Mr. Fleck is correct that in one year from now that we will pay off the debt and we would have \$1.5, \$5M extra per year, then at that point if we wait three years, if that is correct, then why not wait three years, have the money in cash and pay for the projects. You are only asking \$15M. If that’s the case, why don’t we pay as we go.” Mr. Thacker noted that the Mayor said he did not know of any other options and asked why not wait and pay the money.

Mayor Wood replied that Mr. Thacker had raised a good point. Mayor Wood noted that there are two options available to this Council. They can either borrow the money or the City pays as it goes. The Mayor said that Mr. Thacker was accurate, that is an alternative. The Mayor said that would be a decision for the citizens to make that we pay as we go. The advantage of accelerating these things is that there would be the improvement now. There would be a \$1.5M per year cost to borrowing this. It is a very low interest rate but it is not zero, there is a cost. Mayor Wood reiterated to pay as you go is an option but there is no option to accelerate. Mayor Wood reiterated that Mr. Thacker is exactly right. The Council could choose that route but have chosen to go with a bond issue. The citizens can either choose to support that or not. Mr. Thacker said, “I think I would like to see you guys stand on conviction that cash is always better than credit.”

No further public comments.

Council Comments:

Councilmember Dippolito asked Mr. Lee to clarify how much cash would be available each year if the City does not issue bonds. Mr. Lee stated, “Currently, the Debt Service, we collect about \$6.3M annually. Based on the \$24M issue, .56 would be our millage rate. That Debt Service is \$2.4M. If we do the \$14.7M, the Debt Service is \$1.6M. So, it is \$4.7M annually that if we choose to move from Debt Service to M&O would be available for capital projects or maintenance operation.”

Mayor Wood stated he wanted to see if he understood it. Mayor Wood said, “If I understand his answer, if we choose to pay as you go versus borrowing, we would have about \$4.7M a year which we could pay as you go for capital projects?” Mr. Lee replied, “I was saying, if we issued the debt, there is \$4.7M.” Mayor Wood asked, “If we didn’t issue any debt, how much money would we have if we kept the total millage rate the same that paid as we go versus borrowing.” Mr. Lee replied, “\$6.3M.” Mayor Wood replied, “\$6.3M. Councilmember Igleheart is right. We could either choose to spend that on capital, spend that other programs, or we could reduce the millage rate.”

Councilmember Dippolito said, “If we issue this debt, how much cash would we have and how much goes toward debt service, because we are not using the full \$6.3M for the debt service.” Mr. Lee replied, “That is correct, if we issued this debt, we would have essentially \$15M in cash borrowed at 1.4% interest. In addition to that, we would have \$4.7M annually if we so choose to

move that money to the General Fund to do a pay as you go program or to fund the maintenance and operations." Councilmember Dippolito replied, "In lieu of having \$1.6M per year we would be getting \$14.7M. That is roughly 12 years it would take us build out the same project list." Mr. Lee replied that was correct, from the \$1.6M.

Councilmember Igleheart stated the City has operated in many ways as a pay as you operation for most of what the City has done. He said the bond that the City is just paying off, in large part paid for what is now Big Creek Park which was almost \$30M which we did not have the cash at that time. He said that has made a huge impact on the City. Councilmember Igleheart said, "If we look at all the things that were on a list of projects to be done, which are debatable that some people would think could be wants versus needs, it is well over \$200M. In order for us to actually accomplish a lot of the things that we are talking and some of the Gateway projects and others that are major projects for the City, we could pay as you go, but we just simply don't have that amount of cash to do that anytime soon. This is an effort to make some of those things happen sooner." Councilmember Igleheart noted that as of last week he was ready to say that the City should not move forward in November but should wait until next year because there is so much uncertainty, particularly the bigger projects. He said the projects that are on the \$14.7M list, have been around ten years, others two or three. He said the intention has been to do these projects for a long time, they have a purpose and there is large support for those that have been brought out to the public. Councilmember Igleheart said everyone would say that the Holcomb Bridge Road/SR 400 project is a need. The other elements are also critical for several elements of this City, this is just part of that. Councilmember Igleheart said he is supporting this as it stands now because he thinks this smaller "buckets" are things that can be done now and will help the City now. Councilmember Igleheart said, "As we go forward, and this will be a debate for all of us to have, how much of that, in terms of your millage rate does it going up or down in terms of taxes you pay will determine that. It is not being determined tonight. Also, those bigger projects if we really want to do the things that do the upkeep for maintenance, number of capital projects that we think need to be made for the City, we simply don't have the cash in any reasonable timeframe to do those. We are making that decision and I think to Mr. Lilley's point, if we could vote for it and essentially we are, I would say yes, vote for it and we will take that decision. Based on the state laws of Georgia, under this element, we are making this vote to then bring it to the public to make this go forward. I do support this at it stands."

Councilmember Diamond said what she thought may have gotten lost here, it really belies the years of discussion Council has been having about how to fund facilities and services for the City. This is just one piece of a matrix of the things and a few of the projects. She said we have leveraged in all kinds of ways aside from this, and this is just a piece of the whole puzzle. She said it would be uncomfortable to her in that the citizens voted years ago to put a piece of their millage rate into Debt Service. To pay that off and or continue that without input from the voters again that they want to continue having bond debt service, would make her uncomfortable just rolling that into the millage rate and going from that without discussing it. She said, "You voted for a bond, the bonds are coming to an end. Before we decide what to do with that money, I think we need to ask the citizens. That is why I am supporting this."

Councilmember Orlans said, "I think our philosophy in Roswell has always been to pay as you go as best we can. I think we have done a great job of that over the years. We have had bond referendums in the past. It has always been spent on the big dollar capital projects for the things that you don't always get the money through the operating budget every year, enough of it to carry over to do these large capital projects. I was one who thought we should do a lot more than the \$14M because of the opportunity of interest rates. Because we are paying off bonds, the

millage rate would not be affected. It has nothing to do with moving over the millage debt service to the maintenance operations. That is another discussion, if and when we ever have it. When the bonds are paid off currently, those millage rates go away so it is not a matter of us automatically being able to take that money and move it over to the normal operations of year to year. The opportunity is to get the large projects done with the approval of the voters. That these are projects that have been vetted out, have had public hearings on. We started with \$200M in projects. It is not a matter of not having things that we would like to get done for our citizens and many of them are transportation projects. The Gateway project we were talking about earlier I think is \$18M project; the north bridge over RT400 to help alleviate congestion, to help economic development, to help turn around some questionable areas, that is a \$58M project. I don't think we are trying to borrow money indiscriminately; we have looked at very thoroughly. With today's interest rates, I think we should be borrowing more and get these projects moving and get them done with the thought process that our money that will be coming in later on will be a lot better interest rate for us. We are always on the outlook how we are spending your money. Spending it wisely and trying to do it with a full discussion and all sides of it heard. We are making those decisions in the best way that we can."

Councilmember Wynn asked Mr. Lee to display the slide which showed how the City could leverage monies on fund balance. She said, "We are looking at \$10.6M that we will have in the General Fund but if we can do what we can do with the eighty percent, we can actually take that \$10M and leverage it to almost \$71M. Yes, we do have Plan B, C, D, and E. We are also taxpayers. We are trying to do the best thing we can do for Roswell. There is congestion which needs to be fixed. Pay as you go, yes. The bonds with the pay as you go, with the leverage of our money is how we are going to make Roswell even a better place to live. I thoroughly support this bond."

Councilmember Dippolito said he had his doubts about this bond last week because he thought Council was headed in the direction that too many things were a "little to gray for me." He said, "I am very comfortable with where we wound up with this. I think it is black and white on what we are planning on moving forward with. To me this is about the future of Roswell. He said that Council is not just thinking about this step, but is thinking four and five steps ahead. This project list includes short range projects which Council feels are all important. He said if this is considered along with the radio system that is needed, that uses all of the Fund Balance; from that point forward, even if Council dedicates the entire \$6.3M every year, it will take a long time to reach the \$70M. Councilmember Dippolito stated he understands that some of has asked why the City is spending that money. He said these items are important, are transformational for the City, to make it even better than it currently is. For example, the Oxbo Road improvement is a long range improvement that the City's Transportation staff has worked out a "brilliant solution" that will fundamentally change what is happening on that corridor and down to the river. The Gateway is the same way. We are putting together a solution to do help solve the issues at Oxbo Road. He stated there is a one hundred member committee putting together plans to create not only a transportation corridor to help commuters, but also the entire City. He noted that Mr. Oliver had mentioned how important it is to understand how these issues impact the entire City. Councilmember Dippolito said, "Those are the kinds of things that are transformational. Big Creek is adding another bridge just north of Holcomb Bridge. That is enormous. That along with the \$6M that we have in this proposed bond referendum are just the tip of the iceberg to fix that intersection. That intersection has been a problem for decades." Councilmember Dippolito stated the City has the plan put together but the City does not have the funding for it. He said, "This is just one piece of an overall puzzle that is helping transform our City to make it better and better."

Vote: The motion passed unanimously.

Mayor Wood stated, "Congratulations Councilmember Dippolito on bringing this Council from confusion last Monday night to consensus and unanimity tonight. That will go a long way in helping getting approval for this bond issue, the unanimous support for your list which you developed with the help of Council."

Council Comment:

Councilmember Price inquired about the wording for the referendum and asked for confirmation. She noted that the first two are gone because of the dollar amount, but the third one still included the Cultural Arts Facility.

Mayor Wood clarified, "We are going to pass a bond resolution to one vote, to approve all, up or down, all the projects and the project list will be the project list which was shown on the slide, and Cultural Arts will not be a part of it."

Councilmember Price replied that she understood.

4. Approval for the Mayor and/or City Administrator to sign a contract with Aetna for group health benefits and approval of the City of Roswell Employee Benefits program for the period October 1, 2012 to September 30, 2013.

Councilmember Dippolito introduced this item. Human Resources Director Dan Roach stated this item is for renewal for the City's employee health and ancillary benefits for the coverage period beginning October 1, 2012. He explained that the City, through its broker, solicited competitive bids from all carriers for each of the lines of coverage: health, dental, life, disability, and vision insurance. Mr. Roach stated those negotiations started at a double digit percent increase. Mr. Roach stated he was pleased to recommend to Council the option to move all lines of coverage to Aetna with a modest reduction in the City's overall health insurance cost of about one half of one percent. Mr. Roach offered to take questions.

Council Comment:

Councilmember Dippolito stated that he found it amazing that in years when insurance costs have risen so much, that Mr. Roach was able to find a decrease.

Motion: Councilmember Dippolito moved for Approval for the Mayor and/or City Administrator to sign a contract with Aetna for group health benefits and approval of the City of Roswell Employee Benefits program for the period October 1, 2012 to September 30, 2013. Councilmember Orlans seconded.

Public Comment:

Janet Russell, 260 Willow Springs Drive, asked how the lowering of rates might affect the employees and the percentage they will pay because for several years there have not been any pay raises although employee health benefit premiums have risen. Ms. Russell expressed concern that the City has "some of the poorest paid police officers in municipal Fulton County, the second from the bottom."

Mayor Wood clarified that the employees did get a raise this year. The Mayor stated the question was how this will affect the employees' share.

Mr. Roach replied, "I appreciate the question. There will be no increase in the employee share of the premiums. No increase in the premiums period. There will actually be a modest reduction in the premiums with no changes in the plan design."

No further comments.

Vote: The motion passed unanimously.

Mayor Wood issued a ten minute break. The Mayor and Council meeting reconvened at 8:45 p.m.

Community Development - Councilmember Nancy Diamond

5. RZ12-05, CV12-02, 12160 Etris Rd., EAH Investments, Land Lot 1236. (This item was deferred from the July 9, 2012 Mayor and City Council meeting)

Councilmember Diamond introduced this item. Planning and Zoning Director Brad Townsend stated this item had been deferred from the July 9, 2012 Mayor and Council meeting. The applicant has requested to rezone 16.69 acres of property at the Etris Road / Kent Road intersection from FC-A/AG-1 to R-3A for the development of a single family subdivision containing 38 single-family detached homes. The applicant also requests variances. Mr. Townsend referred to the site plan projected overhead for viewing, which included the proposed 38 single-family detached homes layout for the subdivision and was submitted to the Planning Commission. Mr. Townsend noted that staff had reviewed the conditions for this site plan.

Mr. Townsend stated that with this proposed application there are five (5) requested variances.

1. A variance to reduce the minimum lot width requirement from 80' to 60'. In the R-3A zoning classification, the lot width requirement is 80'.
2. A variance to the side yard setback from 10' to 7.5'.
3. A variance to reduce the minimum landscaped open space requirement from 25% to 15%.
4. A variance to increase the maximum lot coverage from 25% to 30%.
5. A variance to establish a 30' setback/buffer along the southern property line. This is a reduction from the required 50' setback and 40' buffer. Mr. Townsend clarified that the building setback variance is on the southern and western property lines.

Mr. Townsend stated staff recommended approval with the following fifteen (15) conditions:

1. The owner/developer shall develop the property in accordance with a revised site plan in compliance with the approved conditions.
2. The owner/developer shall remove the cul-de-sac at the end of Public Street A in order to have access from Kent Road as required by the Roswell Transportation Department.
3. The owner/developer shall dedicate sufficient right-of-way and construct Kent Road so that it is paved at a minimum of 22 feet wide along the complete site frontage as required by the Roswell Transportation Department. This construction shall be completed prior to the approval of the final plat.
4. The owner/developer shall install a five (5) foot sidewalk along the entire Kent Road frontage as required by the City of Roswell Transportation Department. The owner/developer shall dedicate right-of-way to the City of Roswell to encompass the sidewalk.

5. The owner/developer shall dedicate sufficient right-of-way at the time of the final plat at the corner of Kent Road and Etris Road as required by the Roswell Transportation Department.
6. The shared drive for the four lots shall be a one way drive and connect to Etris Road as required by the Roswell Transportation Department.
7. The owner/developer shall have connectivity to the parcel located to the north on the tract one side of the property for future development. The developer shall completely build the stub-out street to the property line to be finished prior to the final plat. The stub-out street shall be shown on the preliminary and final plats. The owner/developer shall place a 4' x 4' sign identifying the end of the street as future connectivity.
8. A preliminary plat shall be completed and approved before submittal for the Land Development Permit.
9. The preliminary and final plat shall indicate a no access easement for all lots along both sides of Etris Road and for the lots along Kent Road.
10. The open space within the subdivision shall be listed in the Home Owner's Association covenants related to the maintenance of the area.
11. The Home Owner's Association documents must be recorded in conjunction with the final plat and prior to the issuance of the first single family home building permit.
12. A steep slope analysis shall be submitted and approved by the City Engineer prior to the submittal for the preliminary plat.
13. The owner/developer shall make appropriate lot adjustments to sufficiently comply with stormwater management requirements best management practices in a manner approved by the Public Works/Environmental Department prior to the submittal of the preliminary plat.
14. The owner/developer shall provide a landscaping and fencing plan along the western side of Etris Road behind lots 1-9, 31-34 and pond #2. The landscaping and fencing plan shall be approved by the Roswell Design Review Board.
15. There shall be a 20' landscape easement along the western side of Etris Road to be controlled by the Home Owner's Association.

Mr. Townsend reviewed each condition. He stated the first condition deals with the site plan. The second condition recommends the removal of the cul-de-sac and to make a road access to Kent Road. The third and fourth conditions deal with transportation improvements on Kent Road. The fifth condition requires right-of-way along Kent Road. The sixth condition recommends the access to Etris Road. The seventh condition deals with the access through the subdivision to the parcel to the north. The eighth and ninth conditions deal with preliminary plat requirements. The tenth condition deals with the open space requirement to be maintained by the HOA. The eleventh condition requires that the HOA record the final plat. The twelfth condition requires a steep slope analysis for the property to the east of Etris Road. The thirteenth condition requires sufficient water improvements and detention ponds to meet the requirements for stormwater management. The fourteenth condition requires landscaping and fencing. The fifteenth condition requires a 20' landscape easement along Etris Road.

Mr. Townsend stated the Planning Commission reviewed this application at their July 17, 2012 hearing and recommended denial.

Planning Commission Recommendations are as follows:

1. The R-3A zoning and lot sizes are not a proper fit with the intent of the 2030 Comprehensive Plan.
2. Some of the variances requested are needed in order to do the project put not all of the variances are supported by the Planning Commission.

3. 2030 Comprehensive Plan - Suburban Residential 1.2.2 Design -
“New development will be compatible with adjacent existing character with similar densities and lot sizes.”
“Traditional single-family homes with quality building materials and high quality design.”
“New development will incorporate open space and preserve existing trees.”

Mr. Townsend displayed a table showing the actual minimum lot sizes. He clarified that this property is R-3A which requires a 9,000 square foot minimum lot size. There have been numerous discussion regarding what would happen with an R-2 12,000 minimum lot size or and R-1 lot which would require an 18,000 square foot minimum lot size. Mr. Townsend displayed another table showing the acreages and the minimum lot sizes in those two zoning districts as well as the minimum lot widths and the standards setbacks for R-2 or R-1 designations.

Council Comments:

Councilmember Price asked Mr. Townsend to clarify what the “equivalent” of the east, west, north, south surround properties is. Mr. Townsend asked Councilmember Price if she meant what their zoning category would be or the minimum lot size. Councilmember Price replied, “Apples to apples. I know they were all Fulton County annexed but what do they work out to.” Mayor Wood suggested looking at the plat to determine the lot sizes. Mr. Townsend noted the Wexford location which is zoned R-1 which would have a minimum lot size of 18,000 square feet; the larger AG-1 parcels; Edenwilde subdivision which is developed under the county R-4, R-4A designation with parcels 9,000 to 18,000 square feet; the R-3 Hamilton Commons has 18,000 square foot lot sizes. Councilmember Price asked for definition of “A” on the application. Mr. Townsend stated, “That is the R-3A designation. If you look at our table of Residential Categories beginning with the E-1, that is the largest two acre parcels. It transitions to the smaller residential. The R-3A is a category that includes numerous other uses that would be allowed. This applicant is requesting that it be limited to the single family subdivision that they are proposing. The only difference between the R-3A and the R-3 is the density allowable, eight units to the acre; R-3A would allow five unit acre density.”

Councilmember Dippolito noted that Mr. Townsend had referenced the 20-30 Comprehensive Plan which is a designation of suburban residential for this property as well as the surrounding property; he asked for summation of what is typically included in suburban residential and the requirements for future development under that plan. Mr. Townsend stated, “As required in the character area of the 20-30 Plan, the suburban residential would allow any of our residential zoning categories. It would allow for some neighborhood commercial uses very similar to Sweet Apple Village, it would also allow for schools, parks, and those type of governmental facilities in that area.” Mr. Townsend confirmed for Councilmember Dippolito that it is fairly broad. He asked if there are any specific requirements relating to new development. Mr. Townsend replied, “That is left up to the Council’s determination.” No further questions.

Applicant:

Doug Dillard, Weissman, Nowack, Curry, & Wilsco, representing the applicant stated he would call upon Paul Corley, the applicant and representative of Edward Andrews Homes (EAH), to provide history and background information. In addition, EAH engineers were available for questions related to transportation and environmental issues. Mr. Dillard stated the applicant agrees with City staff, accepts all conditions, and ask that Council zone this property in accordance with City staff’s recommendation to 38 units on this property. Mr. Dillard stated this application is consistent with the density of surrounding and nearby properties. Mr. Dillard said

there will be arguments about that but Council should pay close attention to not only those who argue and how they say it but they should also pay attention to the true history of the subdivisions that surround this property. He stated Council should be mindful that this property has remained AG-1 for all these years; the Corley-Cook family has owned this property for 77 years and is entitled to develop their property just like other people in Roswell have been able to zone and develop their property. Mr. Dillard stated, "All we are asking you to do is be balanced, be fair in your analysis of this land as it relates to the neighborhood in which it is found, and we think that at the end of the day you will confirm the staff's recommendation, reject the recommendation of the Planning Commission which in our opinion was irresponsible and unresponsive, and zone this property in accordance with our request." Mr. Dillard inquired about the applicant's speaking time limit. Mayor Wood confirmed that the applicant did not have a time limit. Mr. Dillard reiterated that engineers were available for discussion regarding the environmental surface water runoff and transportation issues. Mr. Dillard asked City Planner Jackie Deibel if the transportation agreement with DOT has been forwarded to Council. No audible answer was heard. Mr. Dillard stated they would have to relate that to Council; the issue to the size of the lot and what would be developed there; quality of the homes. Mayor Wood confirmed for Mr. Dillard that there is no time limit for rebuttal but limit to only rebuttal and not new information in rebuttal. Mr. Dillard stated, "We will do to that to the extent that it is duplicitous, we'll do that."

Paul Corley, EAH, stated he recognized that this has been a controversial zoning. He has been building homes since 1998; exclusively in Atlanta since 1997; completed over 40 communities, over 4,000 lots and homes; developed in 12 municipalities including the Roswell; Estates on Eves is one of the first Roswell communities completed by EAH; he has lived in Roswell for several years.

Mr. Corley stated they are seeking Council approval for 38 homes on the approximately 16 acre property. He stated that he wished to speak about "what it is like to develop a small development in today's world." He said it is "obvious that we are coming out of the worst economic recession, real estate depressions in history." It is very difficult to make any project, let alone a project "from ground up successful." He said in Atlanta, the places that are being successful are the "A" locations. Mr. Corley said he determines an "A" to be the best job centers, best schools, best amenities both infrastructure and shopping. He said Roswell is one of those locations. Mr. Corley said, "Your challenge is that you have very few pieces of developable property left. You have redevelopment and you have small what I call infield tracks, which this piece certainly qualifies as an infield piece of property where it has been passed over and we are coming back in to fill in on development." He said they have spent a lot of time on their market and market research to determine what would be successful. Mr. Corley said the average home price for homes built since 2000 in the Roswell High School District for the last 12 months was right at \$300,000. Mr. Corley said his new homes will range from 2400 to 3800 square feet and will start in the low \$300,000 range and hopefully get into the low \$400,000 range.

Mr. Corley stated the original plan was 46 units. The allowable density under R3-A is five units per acre. The allowable density under R-2 is 3.63 units per acre; they are at 2.89. He said they have had several meetings with the adjacent neighborhoods and have worked hard previously and continued to work hard on this zoning case "to be sensitive to their needs." After meeting with the adjacent property owners and subsequent meetings with staff, they revised their plan. All lots there were abutting adjacent homes were made a minimum of R-2; they are all 12,000 square foot lots on the exterior abutting existing residential. In addition, there was concern regarding the zoning designation of R3-A because the "A" stands for attached. Mr. Corley said their intention was always single family. He said they have added conditions not only that it would be single

family, we have increased the minimum on square footages to insure the quality of development is built. He noted they have spent much time with City staff experts regarding transportation and stormwater issues to develop a workable plan, which he felt a consensus has been reached.

Mr. Corley said he raises two objections to the opposition. Regarding the R3-A designation, he asked what precedent does that set along Etris Road. He said, "I believe if you ask your staff, currently your zoning ordinance just does not provide an adequate infield zoning category. They are actually in the process of redoing your ordinance. We tried to quickly put to bed that we had no intentions of doing an attached product and have stipulated in the conditions that it will be single family and deed restricted to only single family." Second, regarding density and lot size, Mr. Corley said, "You have heard staff, we are very similar in density. We are less than half of what is allowable by R3-A and are a full unit less than R-2. The adjacent lot sizes per staff are very similar to what we are proposing." Mr. Corley said this plan deserves approval; it meets all the staff conditions. He said they have also had professionals work on land use, housing studies, transportation, and stormwater trying to address any concerns. He said their plan is consistent with the City's Comp Plan; densities are similar. He said, "You recently rezoned property on Rucker Road at 3.29 units per acre and I recognize that I am surrounded by three of your largest Master Plan communities. I am not asking for 3.29 units. I am asking for 2.35 units per acre." He said the Corley-Cook family deserves the right to sell their property and to expect a reasonable value and a reasonable use. Mr. Corley said, "A lot of these folks that are in the audience tonight when Edenwilde was zoned when Wexford was zoned, and when Hamilton Commons was zoned, they were mostly all farms out here. It is in infield piece of development. We have made significant concessions from 46 units to 38. We have made commitments to both your Public Works department and Transportation department to make improvements in both stormwater and in transportation." He asked Council to consider "If it matters that if it is 3 units or 2.5 or 2.35; what should matter is what the quality of the development and the quality of the homes are; does this meet the City's criteria." He asked, "Does your staff, the professional experts, recommend approval of this project, and they do. The three that things that matter are absolute yes." Mr. Corley thanked Council and asked for their support.

Council Comment:

Councilmember Orlans referring to the chart displaying different zoning categories going from one acre, 18,000 square feet, 12,000 square feet, and 19,000 square feet, said Mr. Corley is asking all the way down to 3-A as the zoning category and also variances to make the width narrower to shrink them further. He asked Mr. Corley to explain why they need to go that way and to include their thought process behind that. Mr. Corley said, "R-3A, R3-Attached, allows five units an acre. Jackie, an eighty foot minimum width size of R3-A, is that the minimum width size? That is a complete contradiction in that zoning category. There are a lot contradictions in an R3-A. You could never obtain a zoning with an eighty foot lot that would exceed 3 units per acre. If you had a perfectly flat piece of property with no streams, you could not exceed 3 units per acre. The R3-A, and I will defer to staff, it was the best. We came in and met with staff. We recognized that the R3-A would certainly, with the attached part would set off some red alarms but it is the only thing that is there besides going to R-2." Councilmember Orlans replied, "That is not giving me the logic of going to even smaller dimensions than what is already there when it is already one of the smallest zoning categories we have." Mr. Corley replied, "When I did my original plan, let me answer a different way, of forty-six units, it came up with a density of 2.89 units with the variance. The zoning ordinance is not efficient."

Mr. Dillard stated, "Mr. Orlans, when you look at the variances, you've got to take it in the context of other requirements for side, front yard, rear yard, and buffer, realistic; are they just

arbitrary numbers. And when you look at what is around us, to require an eighty foot lot when you don't have that requirement in Edenwilde or in Wexford, when you look at a rear yard, a fifty foot buffer when there is no buffer required in Edenwilde or in Wexford or in Hamilton Commons, and when you take into consideration the fact that given the lot sizes and the environmental pressures that are put on relative to environmental flood plain and that kind of thing when you can actually go down in one of those subdivisions to as small as a 4500 square foot buildable area, in a lot that is pretty well consumed by non-usable land. So, when you look at our 15% requirement for open space, and it is higher than Edenwilde which is 5%, it is higher than Wexford which is 2%, and it is higher than Hamilton Commons which is 10%. So, when we looked at the surrounding development to try to make this consistent with the overall rule of single family detached residential in an urban atmosphere, we are talking about Gateway, we are talking about mixed use, and we are talking about all that kind of thing, yet we've got to deal with what you want in a city, an urban environment relative to traditional suburban concepts which have proven not to work. So, when you look at the overall environment of the subdivision within which we are going to be developing this property, it is really with the variances, has more open space, side yard setbacks, in Edewilde are 7 feet, we are 7.5. The Hamilton Commons and Wexford are 10. So, the variances are very consistent with overall development of the community. Staff recommended that. We feel like that those standards of front and side yard setbacks are just arbitrary numbers, they don't really relate to the protection of public health, safety and welfare which is what they are proposed to do."

Councilmember Diamond stating she was following up on the variance question, stated that in the past we have done variances like this because we were saving trees, putting in parkland. She asked if there was any of that which she did not see. She noted that she saw a couple of detention ponds. Part of the City's Comp Plan talks about open space and tree preservation; is there any opportunity for that. Mr. Dillard replied there was an opportunity. He noted that they have proposed providing 15% which is a minimum of 5% more than surrounding subdivisions. There will be an opportunity to do that. Mr. Dillard stated that in addition, they should look at the surface water runoff and how to deal with that drainage issue, which will take open space in order to provide that. Councilmember Diamond asked Mr. Dillard about the attempts to market the property as it is. Mr. Dillard stated, "I don't know what attempts have been made to market it. It is zoned A-G. The family is ready to sell it. I don't know that there has been any listing or any market for it." Mr. Corey replied, "He has tried to sell it previously, obviously within the last five years." Councilmember Diamond asked how that has been done and whether there was a sign somewhere or advertising. Mr. Corey stated he could not answer that. Mr. Dillard stated, "Let me just say this, this is very important from a legal standpoint. We are not claiming that the fate of the market or being able to sell this property is justification for the rezoning. I am not aware of whatever efforts have been made to market the property. In our opinion, that is irrelevant. What we have tried to do is to try to bring it within the framework of the urban core that you are suggesting in your Comprehensive Plan. This application is consistent with your Comprehensive Plan recommendations. The densities that we are talking about are under what your plan recommends. It is under the surrounding neighborhoods and so whether or not they tried to sell it is irrelevant. Your inquiry is limited to whether or not the AG classification is proper. If it is not proper you should rezone it." Councilmember Diamond replied, "When your application sir, says that you tried to market it, I think it is reasonable to ask what that was. That was my question." Mr. Dillard replied, "I am just saying that I don't know. But Ms. Diamond, I need you to understand very clearly, that whether we try to market it or not has nothing to do with whether the property is constitutionally zoned." Councilmember Diamond said she heard Mr. Dillard. Councilmember Diamond referring to page 5 of 19 of the Roswell Staff Report, stated she assumed the chart of the surrounding properties and sizes came at the beginning before the

application was adjusted for lot sizes. She noted that she heard Mr. Dillard mention that "the total density per acre is 2.35, which is a little less than is what is printed here, and then it is split out between the two properties." She asked for the numbers of the two different tracts. Mr. Dillard stated, "It is pretty obvious that the density across the street is a lot less for the four units than on the other side where you go with thirty units. The density over there, those are environmental impacts that you have got to deal with." Councilmember Diamond replied, "But when you are purporting that it is 2.3 per acre and the majority of it is .83 here, I would like to get that number." Mr. Dillard replied, "We are three on the west side and we're one on east side."

Councilmember Wynn referring to the Roswell Staff Report page 16, regarding a sewer moratorium in the Little River Basin, stated, "With this type of density there is no way that you can do any type of septic tanks because of the requirements that Fulton County has." Mr. Dillard responded that would not want to do septic tanks. Councilmember Wynn agreed. She said, "When you were doing your application signature page, it says that you are going to look at this later to see how we are going to do this. But, I think this is a question of you cannot build it unless you have the sewer." She asked where this issue stands and if it had been worked out with Fulton County. Mr. Dillard replied that obviously sewer is a requirement and they would have to work with Fulton County to make that happen. He said they understand that the Little River Basin is at capacity. They will have discussion with Fulton County relative to sewer taps that have been sold and not used and an opportunity that the applicant may have to purchase those. Mr. Dillard said, "We feel like that is a permitting issue and not a zoning issue and that is something that we must comply with as part of the development of the property. In order to go forward and try to secure those taps, we need to have the zoning in place in order to spend the engineering money necessary to do it the proper way." Councilmember Wynn stated she agreed with Mr. Dillard's response but it was a necessary question to have answered. Mr. Dillard replied that he was involved with the Little River Water Plant and the expansion so they were very much aware of it all. Councilmember Wynn referred to variance number 5, said it was her understanding that the applicant wanted to take the setback buffer from a cumulative total of 90' (ninety) down to 30' (thirty) feet. Mr. Dillard replied that was incorrect; it is fifty (50) feet. He asked if she was referring to the rear yard buffer. Councilmember Wynn replied, "This is how it reads: 'A variance to establish a 30' setback/buffer along the southern property line. This is a reduction from the required 50' setback and 40' buffer.'" She asked for his clarification. Mr. Dillard replied, "It was my understanding that it is a 50' buffer. It was a 50' setback of which there was a 40' buffer. What we are doing is dropping that down to both a 30' setback and buffer." Planning and Zoning Director Brad Townsend stated they are not cumulative. Mr. Dillard agreed and said there was not 90' setting there. Councilmember Wynn said, "So, in a 50' setback, there has to be a 40' buffer according to ours. But, according to the variance, it is a 30' setback/buffer. How much is a buffer and how much is a setback." Mr. Dillard replied that it is all buffer and is setback as well. Mr. Townsend replied, "They are one and the same." Councilmember Wynn said that to her buffer and setbacks are two different things. Mr. Dillard said, "What we are going to do is use that 30' (thirty) as a building setback but we are also going to use that thirty feet as an undisturbed buffer." Councilmember Wynn asked if he was talking about building setbacks. Mr. Dillard agreed. Councilmember Wynn asked for confirmation that the applicant was going from 50' down to 30'. Mr. Dillard stated that is correct.

No further Council comments. Mr. Dillard stated he would reserve time for rebuttal.

Public Comment:

Ronnie Orston, 515 Kent Road, made the following comments. She stated that she is a real estate broker and then presented an item to Councilmember Diamond and said that it shows there

has been no effort to sell this property in the typical way a residential property should be sold. This does not conform in many ways and although there might be a few 9,000 square foot lots hidden in Edenwilde, she has not seen any. The surrounding area is mostly on acreage. She said she is not interested in what is on Rucker Road which is one of the areas used for a comparable size property. Ms. Orston said her property is not in a subdivision but adjoins Hamilton Commons and the two homes that abut her property are over an acre each which is consistent with what is in the neighborhood and added that Etris Road has beautiful homes on both sides. No one has addressed the impact this project will have on Kent Road that is one of the last remaining dirt roads in Roswell. She said people enjoy a dirt road differently from a typical road and many people walk, run and bike there. She said Roswell is proud of its green space, which they have on Kent Road and that is lacking in most other places. There are six homes on Kent Road and two adjacent properties that don't front the road plus one unimproved parcel. Until not long ago there were signs indicating this was not a through street and there was a good reason for that and said she did not understand why those signs had disappeared because it is a very dangerous road to drive on. The speed limit is 25 mph but kids drive down the road at 50-60 mph. Ms. Orston said the applicant wants them to believe that Kent Road can handle their guestimate of 340 or more car trips per day, at least half of which are going to be on Kent Road. She said she and her husband had taken exact measurements of the road width and ditch depth and they had taken pictures. She referred to a picture on the overhead slide that indicated their measurements of ditch depth at 44 inches at their driveway and road width of 15 feet, which is constantly eroding because of the dirt and gravel. She said the City of Roswell is responsible for maintaining the road but they have been told that the City does not have the money for the equipment or gravel, but despite that, they are going to allow 170 or possibly more cars because this is a cut through between Etris and King Roads. She said with more cars on the road added to the manmade erosion, there would be no road left and then the City will have to deal with that. She said they are happy now and keeping them happy is probably a good idea for the City. Ms. Orston displayed another picture and stated it had been taken from her car the day before and she pointed out that two cars traveling in opposite directions could not safely pass each other even at 25 mph. She said the people who live in the area know this and they watch out for the walkers, joggers and bikers, and know they must stop and carefully pull over to avoid the ditches. She said on one occasion a car had flipped over in front of her house into the ditch, which at that time was probably 30 inches deep, but because of natural erosion and water runoff, is now 44 inches deep. She said the road cannot handle the traffic or the water problem that this development will create. Ms. Orston stated this development is not only wrong for Kent Road but wrong for the area, which is why it was denied at the last meeting. She asked Council to give careful consideration before approving this rezoning.

Kirt Lattanze, Edenwilde subdivision. Mr. Lattanze said the property owner had the opportunity to sell the land when Fairgreen was developing Edenwilde, but because they chose not to do that, does not mean they should now get to do whatever they want and be able to have this very high-density zoning. He said excluding the subdivisions with master plans like Edenwilde and Wexford, the homes on Etris Road are beautiful estate lots that are zoned E-2 and towards the end of the road are the most beautiful homes that were built in the last five years with fencing surrounding them. He said these beautiful homes would be changed completely if this kind of high-density zoning is allowed. Mr. Lattanze said he had never heard of so many variances in a zoning, which are arbitrary numbers just for the developer to meet their profit needs and Council is not here to approve someone to make the maximum profit they can. He said this is actually estate zoning, not even R-1, and that the homes surrounding the proposed development are nice homes, not just in the subdivisions but also the single-family homes with driveways entering Etris Road which were only built within the last 5-10 years. He said it is viable to sell the property in

that respect but not at the profits that they want to make. He said this is really all about the profits. Mr. Lattanze said it is fair for the owner to be able to sell their property and he is not arguing that. However, they should not be able to use the municipalities as a conduit to get whatever they can, which appears to be what they are trying to do.

Dave Rittenhouse, Treasurer of the Wexford Homeowners Association, stated he would be addressing the Wexford residents' concerns over the zoning of this property. He noted that their main concern is that the proposed rezoning of this property does not meet the future development and design principles stipulated in the 2030 Comprehensive Plan for a suburban residential character area. Mr. Rittenhouse then read the following excerpt from the plan:

- New development will be compatible with adjacent existing character with similar densities and lot sizes.
- Infill transitions appropriately scale new development to eliminate impacts to existing surrounding stable neighborhoods (buffers, open space and landscaping).
- New development may incorporate mixed residential with both multi-family and single-family options only if new development containing multi-family residential match the lot size and building material character of the adjacent development.
- New development will incorporate open space and preserve existing trees.

Mr. Rittenhouse stated that the Wexford residents are concerned that the R-3A zoning with the requested variances for this property that were talked about earlier, do not match the character or the zoning of Wexford which is R-1. He said the Wexford community consists of 450 homes on 245.1 acres with a gross average of 1.8 homes per acre that equals 24,444 square feet per lot. He said Wexford was developed in four phases and the actual lot size as shown on the plot plan ranged from 18,000-35,000 square feet for phases I and II, and the minimum lot size was 14,000 square feet for phases III and IV. Mr. Rittenhouse noted that his lot is 15,000 square feet and added that he had no knowledge of any lots that are 9,000 square feet in Wexford. He said the homes in Wexford are mostly 3,000-4,000 square feet, which does not include basements that most of the homes in Wexford have, and that homes as small as 2,500 square feet is not the norm. He noted that not only lot and home size influences the character of a community. He said other issues influence the character and pointed out that Wexford has 6.5 acres of common area where their amenities are located. He said they include the clubhouse, which is a restored historic farmhouse with six tennis courts and three viewing areas including a covered gazebo, a playground, an Olympic size swimming pool, a pool house, and outdoor restrooms with changing areas. He said they have three beautiful lakes for the enjoyment of the community with benches and swings and two covered gazebos for viewing and fishing. Mr. Rittenhouse said in summary, the character of the proposed development and the requested R-3A zoning with the variances do not match the character of Wexford and the R-3A rezoning would set a precedent for other properties, which is an unacceptable risk for the Wexford community. He noted that the residents of Wexford do not oppose the development of the property; however, they desire that the development is in a manner consistent with the 2030 Comprehensive Plan and for these reasons; the residents of Wexford respectfully request a denial for the R-3A zoning.

Debbie Gardner, Hamilton Commons, stated that the 2030 Comprehensive Plan clearly defines the infill requirements for their character area. She said R-3A zoning would set a dangerous precedent in an area that favors R-1, E-1 and E-2. She said smaller type lots as part of a larger master planned community would be varied and spaced throughout the development, thus minimizing the visual density. She said the homes proposed to be built in this development will sit on small lots on tight streets one after the other with no green space or amenities and will appear squeezed and non-conforming to the existing look of the area west of Hardscrabble Road.

She said it would create an isolated zoning area, which is not the goal of the 2030 plan. She said she understands that variances are allowed for the hardship of a property that is difficult to work with, but this property is not that difficult to work with and could easily be divided into larger portions. She pointed out that the applicant said the natural buffers are combined, which means they are rolled into the backyard and if a homeowner decides to cut down trees in order to have a backyard, then the natural buffer will be destroyed. She said homeowners in the existing neighborhoods voted to be annexed by the City of Roswell in 2000 because Roswell always had a reputation for being tough on zoning and the residents are now relying on the City to continue to look out for their best interest.

Wayne Foley, 12585 Etris Road, said he has lived here for seven years having bought his property when a horse farm was subdivided and one of the reasons he purchased it was because of the pristine country setting. He said each piece of property has roughly two acres. He said as Ms. Gardner had mentioned, the developer could work with this property by putting enough size on a lot but they don't want that; they want to make more money by cramming in more lots which is not consistent with the area. He said he and his family vehemently disagree with this rezoning and hoped that Council would follow the Planning Commission recommendation.

Lee Pettit, President of Edenwilde Homeowners Association. Mr. Pettit said that Edenwilde has 400 homes and he lives on one of the smaller lots in the neighborhood that is 13,000 square feet and pointed out that he cannot find a lot that is 9,000 square feet. He said that although it may have been zoned to have some of those size lots, they are mostly R-1. He said in reference to the zoning and housing prices that Mr. Corley had talked about, it was hard to believe that homes would approach the \$400,000 range with no lawn and property that goes up to the edge of the property lines with small backyard setbacks. He said perhaps with the four homes on the one side of the street but certainly not the 34 homes on the other side. He said he believes the proposed homes are significantly different from other homes in the area, obviously not consistent with the 2030 plan and would have significantly smaller square footage as well. He said Edenwilde is in support of selling the property, most everyone in the neighborhood is aware that there are pockets of land around them that need to be sold and the owners have the right to do that, but this is not the right development or the right fit for this area. He said he hoped that Council understands that and said Edenwilde would support building something more consistent with this area. Mr. Pettit said that the surrounding area is really R-1 with estate lots and that is what they will support. He said they would like clarification about the 30-foot buffer setback that was mentioned as being an undisturbed buffer setback and asked if there would be a yard. Mr. Pettit said lastly, although it has already been addressed somewhat, asked where the extra sewer taps are. He said if they are there, he wished he could have bought one. Mr. Pettit then pointed out that the actual zoning is slightly over three units per acre for the 34 homes and that this should really be looked at as two separate pieces of a puzzle that probably don't even fit together.

Cheryl Henleben, Hamilton Commons Homeowners Association President. Ms. Henleben said Jackie Deibel had informed them at the beginning of the project that there were twenty-three zoning criteria taken into context when considering rezoning. She said of those twenty-three, as a community and as a board, they have gone through all of them extensively and they have issues with seventeen of those criteria. She said fourteen of them directly relate to the character of the neighborhood. She said item numbers 1, 2, 5, 6, 11, 12, 13, 14, 17, 18, 19, 21, 22 and 23 deals with the character in the 2030 Comprehensive Plan. She read a section from the plan as follows, "The new development will be compatible with adjacent existing character with similar density and lot sizes." Ms. Henleben said this is not compatible with the existing character nor similar in density to adjacent developments and continued to read as follows, "The infill transitions

appropriately scale new development to eliminate impacts to existing surrounding stable neighborhoods including buffers, open space and landscaping". She noted that with the natural buffer there would be almost no backyards. She said the third item in the design is, "New development may incorporate mixed residential with both multi-family and single-family options only if new development containing multi-family residential match the lot sizes and building material character of the adjacent development along the perimeter." She said Mr. Corley stated that he had changed the lot sizes of his perimeter properties to 12,000 square feet but the properties in Hamilton Commons are 18,000 square feet and therefore do not match. She said the 2025 Comprehensive Plan, which is somewhat outdated, specifically states that, "The Little River Water Reclamation Plant is currently at capacity and is unlikely to be expanded or diverted. Several developments in the area were provided sanitary sewer service while the plant had remaining capacity." She said this is no longer the case and future development in the Little River Basin will therefore most likely have to be on septic tanks. She said she had spoken to Fulton County's water engineering department, as had other residents from the neighborhood. Originally, in 1998, 500 permits were issued but no permits are left. She said it would be interesting to know where Mr. Corley is going to find 38 permits to hook into sewer and noted that item #10 from the twenty-three zoning criteria states, "Whether the property can be used in accordance to existing regulations," and said she believed existing regulations require sewer to your homes. She said knowledge of the fact that there are no permits available for this property should be considered when rezoning even if sewer is something that will be considered at another point in time. She read item #20 of the twenty-three rezoning conditions as follows, "The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality." She said Hamilton Commons, Lakeside at Hamilton Commons and Edenwilde have all dealt with stormwater issues for years and adding more pervious surface to the area will only enhance the current problems. She read a portion of condition #16, "A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district..." She said the property has never been publicly marketed nor publicly for sale; there has never been a for sale sign posted on this property. She said the voters in the affected area hope that Council will live up to the tough zoning criteria which is one reasons the voters chose to be annexed by the City twelve years ago. She said if possible, the property should remain in the E-2 conversion state.

Pete Pernice, 12225 Asbury Park Drive, said his property directly abuts this property and believed he needed to speak as the homeowner most directly impacted by this. He said he does not have facts or figures, that his comments are purely emotional and off the cuff. Mr. Pernice said he has lived at his address for twenty years, is the original owner and has enjoyed every minute of it and noted that he never thought he would be the last one in and could shut the door behind him and there would be no more development. He said later, Rosebriar was built and absorbed by Wexford, then Edenwilde was developed and both Beazer and Whelan built homes on Etris Road that were annexed in and he believed all that development was appropriate. He said but from seeing the maps and hearing everything that has been said, he does not feel this development is appropriate and does not agree with it. He added that the applicant had referred many times to the City of Roswell as being urban to justify this density, but having grown up in New York himself and then having both of his sons grow up in Roswell, he thinks they are better for it. He said he has appreciated Roswell High School and the things that Council and their predecessors have done for the citizens of Roswell and he would be very disappointed if this was approved because it would change the character of Etris Road.

Darren Horvath, 376 Kent Road, noted that Kent Road had gone somewhat unnoticed through this process and had very little inclusion until they were able to go in front of a planning

commission. He said the point the applicant is making, that there is not a great disparity in lot size between what they are proposing and the existing neighborhoods, is not true. The lot sizes and the character of the lots are very different, by looking at the variances they are requesting, wanting to narrow the size of the lots from a minimum 80' to 60'. Mr. Horvath said the applicant stated that Edenwilde has lots with variances that are similar. Mr. Horvath said he has been in Edenwilde many times and whether the house setbacks were changed or not, the vast majority of them have garages on the side of the buildings with a driveway. He said there is not one house up to a property line with the next house up to a property line. Mr. Horvath said changing to a 60-foot lot size with a 7.5-foot setback on each side, leaves only 45 feet to build on and one cannot put a driveway in that is 15 feet wide ending up with a 30 foot house that is 2,400 to 3,800 square feet. He said that would be a 30-foot wide house, 60 feet deep and he didn't know how there could be a back buffer in a house built like that; it is not the same thing. There will be driveways in the front with concrete, garages in the front with black top asphalt and that is all they will have. He said he couldn't understand where the calculation was coming from for the open space they have mentioned. He said the only open space they are referring to is the area that is on the east side of Etris Road which is where their stormwater collection will be located and two more on the west side where they are building the 34 lots. He said they are required to have a fence or something that is typically very high that will keep children from falling in when they fill up with water and that does not create a useful open space. He said with these smaller 10,000 square foot lots with houses similar in size to the surrounding neighborhoods that are on 18,000 square foot lots, there cannot be as much green area, not with all of the buildings, asphalt and concrete driveways. Mr. Horvath said this property is almost two different subdivisions but he wanted to focus on the west side that has 34 lots because that is where the higher density is. He said 31 of the lots are less than 13,000 square feet, which is 91% of the total lots and of those, 24 lots are less than 12,000 square feet, which is 71%. He said 19 lots are less than 11,000 square feet, which is 56% of the total lots and 13 are less than 10,000 square feet, which is 38% of the total lots. Mr. Horvath said when looking at the surrounding area, this has been compared to the second phase of Wexford. He said Larney Court is the road that runs alongside Kent Road on the opposite side of the proposed development and the average lot size on that cul-de-sac is 15,480 square feet, but the average lot size in the proposed development is 10,900 square feet, which is not even close to being the same and are considerably different. He said Larney Court is the smallest area in Wexford and there are no lots there less than 13,000 square feet and yet in the proposed development, 91% of the lots are 13,000 square feet. He said the people he has spoken to do not oppose the potential development of this property only the development that is being proposed, because it does not fit with the surrounding area because the lot sizes are not the same and it does not fit the 2030 Comprehensive Plan. He said if the plan has any meaning at all, this zoning cannot be approved and if it is, the plan might just as well be trashed. Mr. Horvath said the entire purpose of the plan is to follow the adjacent neighborhoods and this does not.

Bruce Dunkley, Cool Spring Court in Edenwilde. Mr. Dunkley said a lot had been said about the 2030 Comprehensive Plan and they should all be reminded that the Planning Commission voted to deny this zoning. He then referred to the staff's Standards of Review that deals with how this would affect the area. He read item #2, "may adversely affect the existing adjacent properties because the proposed subdivision lots are much smaller than the existing properties," and item #6, "lot sizes within the R-3A zoning classification do not meet the sizes of the properties in the area." He said there are four or five other times that staff says this zoning doesn't meet the surrounding area. He said that a smaller lot size leads to greater density and although the numbers could be played with, what it comes down to is that there are fewer houses in the existing area that also has parks, tennis courts and swimming pools and that is what the surrounding area is. He said this is not consistent with all the work that has been done on the

2030 Comprehensive Plan and asked that this be considered and added that the citizens and homeowners of Roswell are relying on the Council to protect their values and on this document that says there is a plan and it will be lived by.

Chuck Harley, 12185 Etris Road, Roswell. Mr. Harley said he owns a two-acre parcel of property to the north of the proposed development. He pointed out that he is an unabashed capitalist and all for people making money and has no problem with Mr. Corley doing that and said he is a personal friend of Corley Cook, the property owner, and would like to see him be able to sell the property as well. He said his problem is not that the property is being developed but that the second plan that came out shows a dead end street into his property and the setback of the houses on the end of that street is 7.5 feet away from his property. He said that is nowhere close to being a 30 foot setback between his property line and the proposed development. He said he agrees that the proposed layout for this property does not fit anywhere within the character of the area on Etris Road and he would like to see another plan come forth with larger lots.

Kevin Caldwell, 185 Hamilton Way, Lakeside at Hamilton Commons, said he currently lives in Edenwilde and is in between the two communities at this time. Mr. Caldwell stated that he and his wife own two properties on East Crossville that were rezoned for their business as well as another residential property in a subdivision for which he had played a part in having annexed into the City of Roswell several years ago. He said he is not opposed to development in Roswell and has watched the City grow from 25,000 to almost 100,000 residents in the time he has lived here. He said as a former design review board chairman and member, he has enjoyed playing a part in maintaining its character and has attended many hearings where he has both supported and spoken against rezoning. He said he had been witness to a neighbor on East Crossville Road trying to bully him and the City into rezoning where their intentions were not in keeping with the intent of the current zoning and ordinances. He said they asked for many variances that they believed were their constitutional right but the City turned down their proposal on several occasions and they had threatened to sue the City and did take it to the State Supreme Court but had lost the case. Mr. Caldwell said in relation to this applicant, EAH Investments, their proposal is unacceptable due to the density of housing and incongruities with the three adjacent large neighborhoods and homes contained therein and said this property could be developed in a manner that is consistent with adjacent neighborhoods and would be acceptable without the multiple variances. He referred to EAH Investments' Exhibit A and Letter of Intent with concurrent variance justification and constitutional notice and said what he found amazing is the document's outright claim that if the City does not allow this rezoning, they will sue the City. He said that would not be how he would start a conversation with a property that is under contract but not owned by EAH Investments and added that is how a bully starts a conversation. Mr. Caldwell said if the intent was to work with the adjacent property owners in the neighborhoods and the City to build a like neighborhood and to not profit maximize, that would be different but he was having a hard time acknowledging the applicant's manipulation of their statistics for this profit. He said there are two great lawyers on salary for the City of Roswell that can represent the City and its constituents who are adamantly against this applicant. Mr. Caldwell asked that Council vote not to approve this proposal.

Ralph Pasquariello, 170 Hamilton Way, Lakeside at Hamilton Commons. Mr. Pasquariello said his family had lived in their home for sixteen years and their children all attended Roswell High School. He said when they bought the lot, they were concerned about the flood zone but they were guaranteed that it was a 100-year flood zone, but in the last nine years since other neighborhoods have been completed around them, they had been flooded out. He noted that he had sent photographs and emails to the councilmembers and displayed one of the photographs

and said it was of the last storm they had with about 300,000 gallons of water in their back yard. He said they have a little more than one acre, about three quarters of that was flooded with eighteen feet of water, and they lost vegetation and furniture among other things. He said by proposing to build on the acreage up the street and replacing with hardscape that would reduce the green scape by 80% would cause a hardship on all of the residents at the bottom of the hill because they already pray each time that the water doesn't rise anymore every time it rains. He also pointed out that at least twice a year, raw sewage comes out of the manhole at the bottom of Etris Road and flows all over the road and into the lakes where the children fish and boat and he and his wife call the City of Roswell and Fulton County each time to report it. Mr. Pasquariello asked how they could even consider adding another 30 or 40 homes to a system that is already overburdened.

Mr. Wahab, 380 Kent Road, said they moved to the area a little over a year ago and their property is 120,000 square feet with a home that is about 30,000 square feet. He said their property borders some of the adverse impacts of the proposed development and asked if there had been any environmental impact assessments on this. Mayor Wood replied, it is not required for rezoning and his understanding is that has not been done. Mr. Wahab said he thought it could be potentially hazardous and dangerous for a project this size to take place without an environmental impact study. He said they have a very bucolic environment and generations will be compromised if something goes wrong because of sewer systems not being adequately designed because the lay of the land is such that it cannot adequately handle that kind of population density in such a pristine eco system. He asked that Council think very carefully before voting on this and said an overwhelming majority of people believe this is a very bad mistake without more studies as to how it will affect them and their children. He said they loved this area as soon as they saw it and that is one of the reasons they retired here. He said after having worked so hard for 56 years and putting a lot of money into this, that it would be terribly disappointing if they were deprived of the benefits they thought they would be enjoying in their retirement years.

Mike Parks, Edenwilde. Mr. Parks asked if it would be correct to say that the City must rezone this property to some type of zoning tonight because it was previously Fulton County and now in the City of Roswell. Mayor Wood replied that question should be addressed to the City of Attorney and added he did not think this is the appropriate time to ask this question.

No further public comments were made.

Applicant Rebuttal:

Mr. Dillard stated he wanted to be certain that the appraisal, land use study, and the analysis of Mr. Bill Huff which was prepared a few weeks ago and sent to City Planner Jackie Deibel, is submitted for the record and that the letter sent to the City which included renderings of the proposed houses, types of homes and the minimum square footages is also submitted into the record.

Mr. Dillard called Mr. Ken Wood to the podium to address the conclusions and agreements after discussions with the Environmental Department and Transportation departments.

Kenneth Wood, 350 Research Court, stated he would respond to the Transportation public improvements and the Public Works comments. Mr. Wood referring to the plan displayed, stated it was very latest plan. He said that they have come to an agreement with the Transportation department regarding what is necessary on Kent Road and on Etris Road. He stated, "On Etris Road it was install a bike lane on the western side as well as the 10 (ten) foot multi-use as part of

the loop trail. On Kent, we had a speaker earlier who talked about the safety that there are cars literally flipping over in ditches, erosion, which are not part of protecting the public, welfare and safety of the citizens. And so, what we came to in agreement with the Transportation Department was from our access point into Kent Road, from that point all the way back to the intersection we would expand and pave that road to public standards. So, it would go from a dirt road to a twenty-two (22) foot wide road with shoulders and drainage features so that the safety of the road can be protected. That is something which we have agreed to and will do and think that for that section of our development, that would help protect the citizens from the flipping because then you would have a shoulder on the side of the road instead of those steep ditches." Regarding the drainage feature, Mr. Wood said there are a lot of different basins. He said north of this property is the largest basin which is what really effects the downstream conditions. He noted that comments were made earlier about different developments which have come in, but in the last years with the strides in erosion control and stormwater and with the very strict stormwater ordinance, it has not been very many years since that has been in effect, and so the benefits are just now being seen. Mr. Wood said, "Our development in coming in, we have discussed with Public Works and we are committed to providing ponds that will infiltrate for water quality which is taking water into the ground as well as detaining on the other side of the road; installing a new pipe where there is an inferior pipe under Etris Road right now. That will help. We have also committed to taking the water off of Etris Road which runs all the way down Etris towards those neighborhoods that were discussed, and putting it into our detention system. All those things cumulated together with the new ordinances of how we need to detain water quality and detention, will actually provide a big impact on the downstream conditions." Mr. Wood noted that some of the land is pasture land and there is runoff from that now. Their stormwater system as a whole should actually help the downstream conditions.

Mr. Paul Corley, EAH, stated he specifically would like to address the gentleman who called them "bullies." Mr. Corley stated, "We filed a constitutional challenge which Doug will refer to later. I have spent a lot of time working very hard on this zoning so I do resent that." He said that he has met with Mr. Pettit and Mr. Dunkley; residents from Hamilton Commons refused to meet with him. Mr. Corley said he has been very sensitive to the adjacent communities. He noted that negotiations take two people. Mr. Corley said, "Pettit hasn't come back with anything. He left me a message on Friday, 'we don't know what we want.' You want nothing is what you want. You want nothing or I want estate lots. You have a sixteen acre piece of land. If that is the mentality that you want to send to developers and builders in Atlanta, you are not going to see development, if that's what you want. When I have offered and offered to meet and there is nobody on the opposition, my point is we have been at the table to negotiate." He stated they set up a meeting last Thursday with Council and invited HOA's. They had their team from EAH and three City staff members in attendance. Mr. Corey said he was ready to have "somebody facilitate a negotiation." He said it did not occur but they are there to work with folks and are not bullies.

Mr. Dillard referring to the constitutional notice, he said, "I think David would advise you, for us to protect our right to challenge the unconstitutionality of the ordinance we've got to put you on notice as to what our contingents are. That is what the law requires and that is why we did it. It is not an attempt to bully. I have been doing this long enough where I know I can't bully a local government but one thing I do know is that the courts do give us redress in the event that the actions of the local government are not right and are unconstitutional. It would be my advice to Paul that is what we would do in the event this is denied or a zoning classification is given to us that is not acceptable to the constitutional mandate that we feel like is required by law." Mr. Dillard stated he has been coming to Roswell for thirty or more years. He said the horse farm E-2

conversation is a conversation he had in the late seventies. It is amazing to him that we are still talking about E-2 lots along Etris Road when it is surrounded by not E-2 lots and by densities that are in keeping with the densities that we are suggested. Mr. Dillard stated he grew up in Decatur on a sixty foot lot, where there were 1500 square foot homes and also 3000 square foot homes in the same neighborhood.

Inaudible comments from the floor were made.

Mayor Wood interjected and reminded the audience that the applicant had the right to uninterrupted rebuttal and closing argument. The Mayor noted that those in the audience previously had their opportunity to speak and would be escorted out of the room for any further interruptions to the applicant's closing remarks. The Mayor apologized for the interruption.

Mr. Dillard replied that he understood and said he understood that the Mayor is the final arbiter in this decision and they hoped that they could reason with him to adopt what they feel like is a constitutional classification as amended. He said, "There has never been a study done by ARC or anyone that I have been able to find that found that the lot size had any adverse effect on the adjacent properties in any way. What is important is the ultimate value of the residence that is put on that property." He described a situation in Henry County where large lot requirements were imposed and large minimums on the dwellings. He said they challenged that in the Supreme Court of Georgia and the decision was overturned by that court not as being exclusionary but as being arbitrary and capricious and not really relating to the protection of the public health, safety and welfare. He stated that as we deal with the growth, the changing environment, and megatrends of residential uses coming our way that our children and grandchildren will want to employ, they are not looking at large lot subdivisions and big houses; they are looking at the community, the value of their investment, and how and in what manner they will educate their children; pedestrian access; limited vehicular access. Mr. Dillard said it is possible to go throughout this region and find 9,000 square foot lots, 10,000 square foot lots, 15,000, and 20,000 square foot lots on the same street in the same subdivision and get along very well, as in Edenwilde. Mr. Dillard said, "The lots of Hamilton Commons that adjoins us are approximately lots and we've got about 12,000 square foot lots that are adjoining a minimum of 18,000 square foot lots. The number of overall dwellings that are adjacent to one another that back up to one another are virtually the same. The value of the homes that are going to be submitted there are likewise the same." He said the lot size in their opinion, and in the opinion of staff, Mr. Huff, and the 20-30 Plan is irrelevant. He said what is important is does it blend within the character of the community. Mr. Dillard stated, "We are proposing a single family detached subdivision. We are providing for safe and efficient access onto Etris Road. Our preference on Kent Road was not to have any access but have an emergency access; Fire Department and Transportation wanted access onto Kent Road." He said he understood why folks want to keep it a gravel road but the RDOT does not want it to remain as a gravel road, they will make that improvement.

Mr. Dillard referring to environmental issues relative to surface water runoff are being dealt with satisfactorily. He referred to the issue of sewer previously mentioned and said there must be sewer but how and what manner the sewer is obtained is up to us, it is not up to you, because it is a Fulton County situation. He noted that they understand that more than likely, they will have to deal with the Little River plant in order to provide the sewer for this property. Mr. Dillard reiterated that it is a permitting function. He said he did not think that the zoning could be denied because of that. Mr. Dillard stated, "What we are asking you to do tonight is to rezone this property to 38 units. It is density that is well within what you have recently approved to Ashton

Woods. It is within existing densities that exist in all these neighborhoods.” He stated that information had been submitted and has not been challenged by staff. He said staff stated they are smaller lots, suburban residential. Mr. Dillard stated they confirmed that it is suburban residential and that it is consistent with the recommendations of the Comprehensive Plan and not adverse to these neighborhoods. Mr. Dillard read from Mr. Huff’s report: “The proposed development is consistent with the character of the surrounding community of which it is a part. The proposed development is consistent with the price range, density, functional lot size, and quality of the homes to be built. The proposed development far exceeds requirements placed on the surrounding subdivisions in regard to percentage of open space provided. The proposed development is consistent with the Roswell Comprehensive Land Use Plan. The proposed development follows the guidelines established by both the Steinberg Act which has been made a part of the Roswell Zoning Ordinance and the Guhl Criteria established by the Supreme Court of Georgia. The proposed development accomplishes a reasonable and even desirable use of this property. The proposed use will not in any way be a detriment to the surrounding subdivisions. It will not decrease the values of the existing homes. The proposed development will have a positive impact on the area and a positive impact on the values of the surrounding homes in Hamilton Commons, Edenwilde, and Wexford subdivisions. The proposed development definitely follows the principles of good planning, practice, and generally accepted or recommended governmental considerations.” Mr. Dillard stated that everyone cannot always agree but what is important is to treat everyone with equality, to create land use laws in a way that promotes balance, equal opportunity for those that have been residents of the City for a long time. Mr. Dillard noted that Mr. Cook, who was not present, had sent a letter to Council stating his position and was not asking Council to do anything which is unreasonable; he asks Council to create something which is consistent with the surrounding neighborhood. Mr. Dillard stated the issue of lot size is an irrelevant comparison and conversation. He said, “We just ask that you give us something that we feel like is reasonable; we have cut the density down to 38 units; we ask that you zone this property R3-A in accordance with the site plan and staff recommendations.”

Council Comment:

Councilmember Igleheart stated this is indicative of what the City will be facing in the future, “It is infill by existing subdivisions. We are going to have a lot of issues just like this in the future. It has been said numerous times tonight that in the 20-30 Plan, which was just completed not too long ago, begins to deal with type of things. We have pretty clearly said that there are areas that we intend to remain in the type of subdivision set-ups where they are now.” He said he was perplexed by saying that “we are looking towards an urban atmosphere and this is an urban core.” There are certainly areas of the City that we are considering to have some things, but “this area is clearly not one of those, it is clearly one of those areas where it is large subdivisions, and that is what our intention has been.” Referring to densities, Councilmember Igleheart said, “Two versus three doesn’t sound very big, and maybe in a lot of ways it is not, but when you look in this type of realm, two versus three is a huge difference. I am using three based on the side of the road where there is more houses. It is kind of interesting when you can just pick another piece and it makes your densities go down. I don’t think I’ve seen that in some other projects; it is very inventive.” He said, “It does concern me though when we are saying these are arbitrary numbers because that is actually what a lot of zoning is based on and always has been. When you find there are variances on a project, usually, and every now and then there are reasonable things for variances and those are hardships that make sense. Usually it is trying to squeeze too much into what is there. Frankly, this whole case of the R3-A and the variances on top of that is trying to squeeze even more than what is there and make sense under our current situation. Frankly, I am baffled by staff on some of the things they have come forward with, because when you go through the list of our 23 standards, these have withstood constitutional challenge. On my quick

list, these are the numbers: 2, 6, 14, 18, 19, 21, and 22 deal with lot sizes and the surrounding impacts to neighborhoods that are there and the surrounding properties; numbers 10, 13, and 23 deal with existing properties and whether you can market those and use those as constitutionally allowed. There is a long list that shows that we are following our rules, we are following our Comp Plan, and by looking at something that makes sense for this area." Councilmember Igleheart stated he had a problem with "just saying this is fine, there is not that much difference and we should go ahead."

Councilmember Dippolito noted that Mr. Dillard mentioned that there is a growing trend toward smaller lots and people wanting walkable communities that are a little more urban. Councilmember Dippolito said, "I think that is absolutely true. We are moving in the vain here in Roswell to try to get zoning in place. We are working, rewriting our entire zoning code right now. We have put together a form-based code for this area around City Hall but we also recognize that is not appropriate for all parts of Roswell. That is why we set aside in the Comprehensive Plan areas that are suburban residential, which have a different feel. I agree with him in that there is a trend towards that but there are parts of Roswell where that is really appropriate. I don't think that this is one of those areas." Councilmember Dippolito stated he was a "little perplexed" by staff's ultimate recommendation as he read staff's standards of review. Councilmember Dippolito said, "There are four in particular that stand out to me that would have inferred that they would have taken a different position and I concur with their findings. Item #6, where it says: 'Whether there are other existing or changing conditions effecting the use and development of the property which gives supporting grounds for either approval or disapproval of the zoning proposal.' Their comment was: 'The existing subdivisions and large lots along Etris Road gives support that the lot sizes within the R3-A zoning classification do not meet the sizes of the properties in the area.' To me that would imply that they are saying this proposed zoning is inconsistent. Item #14, 'The suitability of the subject property under the proposed zoning district and/or overlay district classification.' Here they say: 'The proposed R3-A zoning may not be suitable due to the minimum lot size of 9,000 square feet when most of the lots adjacent to them and in the vicinity are mainly a minimum of 18,000 square feet or larger.' There again, the second condition of review which I would assume that their conclusion would have been, that this is not consistent. Condition of Review #21: 'The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will carry out the purposes of these zoning regulations.' Staff's comment is: 'The overall zoning scheme for this area is single family residential and although the proposed rezoning request is for a single family subdivision, the size of the lots requested does not meet the overall scheme that has been established in this area.' Item #23: 'The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.' Their comment is: 'The lots along Etris Road in the area which still contain the underlying AG-1 zoning from Fulton County range in size from 2.1 to 10 acres. These properties will at some time in the future be developed and they should be developed similar to the current existing surrounding neighborhoods' which would imply that this property should be similar to the others. As Councilmember Igleheart pointed out, there are numerous other standards of review that would point to this zoning not being consistent but those are four that I have found that staff specifically agrees that it does not meet those standards."

Councilmember Price asked staff, "What is the threshold by which you would recommend denial." Planning and Zoning Director Brad Townsend replied, "The threshold is determined case by case by the product and the rezoning application and site plan that is brought before you." Mr. Townsend clarified for Councilmember Price that it is "case by case." Mayor Wood stated, "It is not a specific numerical." Mr. Townsend replied, "Of the 23, there is not a number that

says 'Ok, then we have to rezone it or we don't have to rezone it.'" Councilmember Price replied, "It just sort of boggles my mind that it doesn't seem to meet very many and I don't understand where the rationale for the approval comes from. Is there a rationale for approval?" Mr. Townsend replied, "I believe the standards we've utilized is to determine that the site plan would be with the variances, a single family development in a single family area." Councilmember Price replied, "At this zoning request?" Mr. Townsend replied, "Yes." Councilmember Price stated, "I know there was a discussion about the left turn lane. It was determined not to be necessary based on the Kent Road access, was that the reasoning, but then there was another discussion of \$300,000 worth of road improvements that would be borne by the applicant. What is the resolution of all those issues." Deputy Director of Transportation David Low replied, "There is just not enough traffic to really justify a left turning lane into the main access." Councilmember Price said, "And the road improvements were for Kent Road only?" Mr. Low replied, "This was into the main access on Etris Road. There is not a need for a left turn lane there based on the traffic volume." Councilmember Price asked if anyone has assessed the utilization of Kent Road as opposed to Etris Road into the southern entrance. Mr. Low said, "Ninety percent of the traffic will be coming from the south. About two thirds of that will be turning into the main access on Etris Road and about one third onto Kent Road. If there is not a need for a left turn lane into the main access off Etris Road then there would be even less traffic, about half of that much, turning onto Kent Road and going in that way." Councilmember Price said, "From the other end of Kent Road you figured of that 340 trips per day, how many of those would be coming from the other end of Kent." Mr. Low replied, "In my estimation, a minor amount. Perhaps as much as ten percent of the total." Councilmember Price noted the road doesn't seem to be accommodating the traffic there now in terms of width, runoff, and dust, etc. Mr. Low replied, "There would be a few trips but not the majority of the trips going down Kent Road."

Councilmember Dippolito said he wished to point out that this is "a difficult assignment for a developer." He expressed his appreciation that Mr. Andrews has been in business since 2007 as Edward Andrews Homes, which has been a "tough period of time to be a residential home builder." Councilmember Dippolito further stated that he hoped that regardless of how this turns out that there would be no hard feelings between the developer and the homeowners. The City is always looking for quality individuals to develop in Roswell and to try to do their best.

Councilmember Diamond stated she had clarifications to make before her motion. She said, "To Councilmember Price's point about the Transportation issues, the conditions #3 and #4 in our packet have been adjusted to what was shown on the screen to account for that change in the length of the requirements. I did want the homeowners to understand that while we are not addressing the water issues at this point, it is not because we don't address them; that is addressed in any permitting that goes on and is addressed at that stage, not the rezoning. Since we have a court reporter, I feel the need to clarify the meeting discussion that was brought up. There was a meeting scheduled for last Thursday between the applicant and our attorney and a couple of Councilmembers. We had clarified that we would only do that in the presence of some homeowner representation and while the meeting was scheduled the week before the invitation went out the day before and they were not able to come and so we did not go. It was not a refusal to meet, it was the way it all kind of came down."

Councilmember Diamond said she appreciated that was interest in building houses in Roswell. That speaks volumes about the improvement in the economy and our viability as a City. She noted that as Councilmember Dippolito had stated, the City is not looking to "run off good builders because that is going to crucial as we go forward, and always has been." She said, "The

City has a number of these infill developments and we do recognize that AG is probably not appropriate at this day and time. I would like to try to suggest a solution that might allow for an appropriate use. I am not ready to go with the claim that this is an urban area because I still believe that it is quite distinctly a suburban area."

Motion: Councilmember Diamond moved to grant zoning on this property of R-1 with the fifteen (15) conditions set forth by staff (as in the presentation, not in the Council packets), without any of the variances that were listed.

Councilmember Diamond said that without the variances, this zoning will allow a good project to good forward, hopefully with additional green space and amenity options.

Mayor Wood clarified that the motion is to approve the R-1 zoning with the conditions that staff has recommended. Councilmember Diamond agreed. Mayor Wood asked if those conditions are consistent with R-1 zoning and if staff has any concern about taking R-1 zoning and grafting those conditions on top of it. Mr. Townsend replied, "No."

Councilmember Orlans seconded the motion.

Further Discussion:

Councilmember Igleheart asked for clarification of the motion. He said, "Usually we do zone to a plan."

Mayor Wood suggested the conditions be listed. He said, "It is not unconditional R-1; it is conditional R-1."

Planning and Zoning Director Brad Townsend stated, "In your packet there is a resolution that was drafted in conjunction with the R-3A. What you have on the screen this evening is changes to that which would be in conformance with the R-1 designation. Condition #1 indicates that the property shall be developed in accordance with a revised site plan in compliance with the approved conditions. They would be required to meet the R-1 zoning criteria which has 18,000 square foot single lot size, 100 foot lot width, 40 foot front setbacks; 10 foot side setbacks; and 35 foot rear setbacks. If the property is zoned that way, they would be able to meet those criteria. The rest of the conditions, #3, and #4, would be amended to conform with the Kent Road improvement only being done to the entrance, not the complete property. The other conditions would remain the same. The variances would not be approved."

Councilmember Igleheart inquired about density numbers. Mr. Townsend replied it would be probably be anywhere from 22 to 26 homes. He added that it would be difficult to get that many with the water requirements.

Councilmember Dippolito said, "As a matter of procedure since this is essentially revising the application and we haven't had a public hearing on it, although it appears that the homeowners had implied that they would like R-1, they have not had a chance to review a site plan or even comment on this now a completely different zoning. Procedurally, can we vote on this?"

Mayor Wood asked City Attorney David Davidson to respond. Mr. Davidson replied, "Yes, you are. You have had the public hearing and you can zone it as you deem appropriate." Mayor Wood replied, "The public hearing can either be a grant or a denial, or something in between. I think there are legal advantages of something in between." Councilmember Dippolito asked if it

could be completely changed and not allow the public to comment. Mayor Wood replied that the public has had an opportunity to comment. Mr. Davidson replied, "You would be putting what you believe to be a constitutional zoning on the property." Mayor Wood replied, "What you have to recognize is that R-1 is more defensible than AG-1 and the City might be in a less defensible position if they were to totally deny and insist upon the large lots. That is the Council's decision, but there is a jeopardy if the Council chooses otherwise."

Councilmember Igleheart state, "I know there have been some deferrals through the Planning Commission. Are we in a time window that would allow another deferral for our decision or where are we in the window of time." Mr. Townsend replied, "They have been granted one deferral. With the movement of the September meeting from the 10th to the 12th, the only regularly scheduled meeting which this could be heard would be August 27th because if you move it to the 12th it is after the 65 days for automatic approval." Councilmember Igleheart replied, "I just don't feel comfortable. I understand the legal aspects of it. I'm saying that without having seen that, heard that, anything until just now, I am uncomfortable doing that. It may make the most sense but I just don't know that could be right now."

Mayor Wood clarified that there is a motion and a second. He noted that if the Council wishes to defer, a motion for deferral would be necessary.

Motion to Defer: Councilmember Igleheart moved to defer this item until the Mayor and Council meeting of August 27, 2012. Mayor Wood clarified the motion was to defer the decision until August 27. Councilmember Orlans asked about an amended motion he thought was on the table. Mayor Wood clarified that there is a motion to defer; if there is a second and a vote to approve a deferral then we would defer this. The Mayor said, "We have a motion and a second to zone it R-1 with condition. If we get a second, the first vote would be whether we vote to defer or not. We have a motion by Councilmember Igleheart for deferral." Councilmember Dippolito seconded the motion. Mayor Wood said, "At this time we will have a discussion of the deferral."

Council Comment:

Councilmember Igleheart apologized that those in attendance for this item may need to come back one more time but that a deferral may be the prudent thing to do in order to review it more.

Councilmember Diamond stated she appreciated Councilmember Igleheart's comments and maintaining compliance with the rules. She preferred to have the public process before Council does anything. Mayor Wood asked if she was supporting the deferral. Councilmember Diamond replied, "I would defer."

Councilmember Wynn asked for clarification if the deferral was in order to have the public hearing for an R-1 zoning. Mayor Wood replied, "You would be deferring the vote altogether. You are neither denying nor permitting; you are deferring the applicant's petition for rezoning to consider an interim step. If you don't take a vote tonight, the vote on whether you deny or approve this is deferred along with the R-1, it is totally deferred." Councilmember Wynn stated, "That means if the deferral goes through, then we start all over again with Mr. Dillard and the developer, the whole thing we just spent three hours on." Mayor Wood stated that would be correct.

Mayor Wood stated there was a motion and a second to defer. The Mayor called for further discussion.

Councilmember Igleheart stated he did not want to go further either, but if it were to fail, how would Council feel if it went to Court. He said, "There are just so many elements involved that I don't feel comfortable making the decision. Obviously, I said I would oppose the motion as it was; it was never a motion to oppose the original plan. But as R-1, it does what most people have said they want. Probably generally it is okay, but what exactly does that mean. I don't know the answer to that. I don't think it is smart to make that decision without knowing that. We have what everyone said on the record."

Mayor Wood replied, "If we defer it, we will have a full public hearing. The applicant will have an opportunity to speak again, the public will have an opportunity to speak again."

Councilmember Igleheart said, "That was one of the comments and I am not reacting necessarily to the crowd, but everybody is moaning saying that we haven't had any input from the public based on this new change. That is because we would make a decision without any input from you on that. This is a chance to get that."

Unidentified speaker asked for this to be explained.

Councilmember Orlans replied, "My one question to staff is, with a revised zoning of R-1, normally we do have a site plan to go with it so what happens with the lack of a site plan." Mr. Townsend replied, "In condition #1, you could place a requirement that they provide a site plan in compliance with R-1." Councilmember Orlans replied, "That wording would have to be amended to make it fit, Councilman." Councilmember Orlans said the question here is we approve it, we don't approve it, do something in between, or now defer it. If it is deferred again it would be heard in its entirety again. If it is denied the way it is now versus an "in between" then that would be taking chances with the courts. Councilmember Orlans said, "The general feeling that I'm getting from the Council is that they are not in favor of the application the way it has been submitted. You have two choices, deny it or as Councilmember Diamond recommended, is to go to an R-1 which is basically the zoning that everybody in here has been suggesting tonight and fits into the community." He said in his opinion he did not see a reason for deferral to go through the discussion over again; he thought the R-1 would fit and be better than a 60' wide lot.

Mayor Wood stated he would hear from the applicant on the issue of deferral and from the public on the issue of deferral. The Mayor encouraged not everyone who spoke the first time to speak the second time.

Applicant:

Mr. Dillard stated they were obviously not prepared to say yes to R-1 and requested a few minutes to confer with staff.

Mayor Wood issued a five minute break. The meeting reconvened at 10:58 p.m. The Mayor asked Mr. Dillard to clarify the applicant's position on deferral.

Mr. Dillard replied that on the issue of deferral, R-1 is not acceptable. He said, "What we propose is an R-2 classification that would provide for 18,000 square foot minimums along the exterior of the property against Hamilton Commons and 18,000 square foot lots on the west side, on a front on Etris with 12,000 square foot minimums in the center. It is an R-2 zoning with no variances with those conditions. How that effects the agreements that we've got with Transportation and working with staff to work all that out, I think that would be what we would do during the deferral period. We also have to be sensitive that we are faced with August 27th

deadline.” He asked if that is within the 65 day period. Mr. Townsend stated September 10th is the 65 days.

Mayor Wood asked Mr. Dillard to repeat his proposal and show it on the map.

Mr. Dillard using the map, described the area along Hamilton Commons. He noted where the minimum 18,000 square foot lots would be. Mr. Dillard said, “These would all be minimum 18,000 square foot lots which is the minimum in Hamilton Commons. The interior lots here, would be 12,000 square foot as a minimum. We would also deal with the setback issue that was brought up on the north side and across Etris Road from the subject, all that would be 18,000 square foot minimums. It would be R-2 which would allow us the 12,000 square foot to the interior but we would condition the zoning on 18,000 which is the R-1, 18,000 square foot minimums on the exterior of the property.”

Public Comment on Deferral:

Darren Horvath, 376 Kent Road. He said he was unsure what Mr. Dillard had just pointed out and what he said about interior needed clarification. Mr. Horvath pointed out two places on an overhead slide and said Mr. Dillard had talked about 18,000 square foot lots and said he does not understand what that means for the lots that line up along Etris Road or Kent Road. He said he thinks interior is just the four lots in between.

Mayor Wood replied that it would be 18,000 square feet along the back of the property and 18,000 square feet along the northern side of the property and the remaining lots on Etris Road and Kent Road would be 12,000 square feet with 18,000 square foot lots across the street.

Mr. Horvath said he did not believe that was acceptable to the public. He said the people he has spoken to do not want to defer this issue; they would like a vote tonight because this has been a long and arduous process for everyone involved and they would like to come to a conclusion tonight. He said they are requesting that Council vote on the proposal and then he asked that everyone at the meeting who is in favor of the R-1 zoning as proposed by Councilmember Diamond to stand up.

Brad Gardner, 12210 Asbury Park Drive, Hamilton Commons. Mr. Gardner said one of the staff recommendations was to increase the diameter of the cul-de-sac in the middle to 60 feet in diameter but it does not look like it has been changed from the original plan and asked if that was correct. There was an inaudible response. Mr. Gardner then said this drawing is not accurate.

Mayor Wood replied the drawing is not accurate but the motion would be adopting that condition. Mayor Wood asked Brad Townsend if that is correct. Brad Townsend replied it is code. Mayor Wood said it is code.

Lee Pettit, Edenwilde HOA President. Mr. Pettit said, speaking on behalf of the entire neighborhood, they feel very strongly that this should be R-1 zoning, given the current mix of mostly R-1 and E-2 on Etris Road. He said even an R-2 is a compromise and would not fit within this neighborhood.

Mayor Wood asked if they would accept R-1. Mr. Pettit replied they would accept R-1.

Frank Mazuki, 930 Tyrone Place, asked how many homes would be built if the zoning were to be R-2.

Mayor Wood replied they would have to do a new site plan and he didn't think that could be answered tonight.

Mr. Corley's Response: Mr. Corley replied 26-28 homes and said he appreciated Mr. Pettit saying that R-2 is not going to work. He said they may be losing sight of the fact that no one has talked about the homes. He said if he were to be zoned R-1, he could sell a lot to some builder from the south side and he could build a 4,000 square foot box and they would not like that. He said they are not paying attention to what matters. He said it is not the lot size but the house. He said he has offered to raise his square footage minimums and offered to put in other conditions to ensure the quality of the home to drive the home price up and that is what should matter. He said if this were just R-1, he could just sell a lot to a builder instead of building himself because he doesn't like it and they can come in and a lot of builders can build it for \$40-42 per square foot. He said we are not paying attention to what is important. He said he is trying to offer a workable plan that he can work with and he knows will work financially. He said any R-1 can be made to work depending on how cheap you get with the product.

Chuck Harley, 12185 Etris Road, Roswell said this is a selfish thing and believes Paul will agree on this that and asked why there has to be a dead end street into his two-acre property. He said there are woods there and he doesn't understand why anyone would need access into that property; on the original plan, there was a cul-de-sac.

Mayor Wood said that Mr. Harley was speaking beyond the motion to defer and public comments at this time should be on motion to defer not on the conditions because that would open up the discussion on everything else again. He asked him to comment only on the motion to defer.

Mr. Harley responded he would like to see the site plan regardless of what zoning is decided.

Mayor Wood said they would need more time to have a site plan. He asked if Mr. Harley would support a deferral. Mr. Harley said he would.

An unidentified resident of Wexford, suggested not deferring because they had already heard everything there is to say. He said to Mr. Corley that he is losing the point; it is not the house, it is the residents who live there. The speaker said the residents who currently live there is what matters. He said he agrees with the R-1 because it goes in the plan with everything else, to defer would just bring it all back to what has already been done tonight, and he didn't think anyone wanted to come back and do that again.

Kevin Caldwell, 185 Hamilton Way, Lakeside at Hamilton Commons. Mr. Caldwell said they have two choices; either rezone to R-1 tonight or defer and come back with a different site plan if they are not willing to compromise to R-1. He said it is too bad that they have spent all this money and all of everyone's time tonight and thrown a compromise in at the last minute because this probably could have been fixed much earlier on.

Ronnie Orston, 515 Kent Road, said she was going to say she was okay with R-1 with a modification of no entrance on Kent Road and to put the signs back up that say no thru street. She said but when Mr. Corley got up and started saying if they didn't give him what he wanted, he would sell the property to another builder and they would build a big box; that changed her mind. She said he is here telling Council what to do and trying to scare them into doing it and the bully word really applies here.

Charles Williams, noted that he had sent an email to Council and one of the points he made was that developers go out of business. He said everyone wants R-1 but the developer made a good point that anything can be done with that; it could be a little 1,000 square foot box or 400 square feet; it doesn't make a difference, what matters is the quality of the product. He said he would prefer that this be deferred because he wants to know the details otherwise they would not know what they might have a few months down the road and we need to know what we are getting. He said he would come back for this because it is important to him. He said he came to Roswell in 1998 because this is where he wants to live with his family and he wants to stay here but he wants his property to be maintained. He said he is a capitalist and has nothing against the developer or the owner making money, however, they should not sacrifice hundreds of homeowners for them to make the dollars they want.

Dave Rittenhouse, Treasurer of the Wexford Homeowners Association. Mr. Rittenhouse said that he and the homeowners of Wexford believe this property should be developed as R-1 as was initially suggested by Councilmember Diamond.

Cheryl Henleben, Hamilton Commons Homeowners Association President, said the homeowners she has spoken with in Hamilton Commons would like to have this zoned only R-1 not R-2.

An unidentified resident of Edenwilde, asked if this is zoned R-1 would the developer still have to present a plan and asked if the residents are not somewhat protected from what the developer had told them they we would have no protection against.

Brad Townsend replied that once this is zoned R-1, it must meet the minimum criteria; there will need to be a preliminary plat process, a land disturbance permit process and a final plat process before they are allowed to sell homes.

The unidentified speaker asked about architecture plans. Mayor Wood replied that the City does not review residential architecture.

Another unidentified resident of Edenwilde, asked if the R-1 zoning is approved, which everyone seems to agree is very restrictive, would the developer have the opportunity to reapply for R-2 zoning if they provide a specific plan.

Mayor Wood asked Brad Townsend if that was correct and if there would be a waiting period. Mr. Townsend replied yes they could apply for new zoning and the only time period is if there is a denial.

The speaker recommended R-1 zoning because he believed that was acceptable to most everyone and it then would be the choice of the developer to come back and present more specifics if that is what they chose to do.

Comments from Mr. Dillard:

He said they reaffirm that R-1 is not acceptable and is unconstitutional. They reaffirm their constitutional notice for that. They would support a deferral to explore the opportunities under R-2 for the purposes that they set forth earlier with the larger lots around the exterior. If there is a problem with a smaller lot, they will absorb that within the subdivision rather than having it around the exterior of the site.

Public Comment on Deferral Continued:

Doug Lucas, 12550 Etris Road. Mr. Lucas said he had been trying to understand both sides, but the last comments he heard seemed as if they were negotiating their quality of life, their home standards, the value of our homes, and the community in which they live. He said those things should not be negotiable. He said this development is not properly placed, although it might fit in somewhere else in Roswell. He said if something is not right or doesn't feel right, don't force it and they are trying to force a round peg into a square hole. He said the R-1 seems to fit the scenario of the area and there is no need to defer.

No further public comments were made.

Mayor Wood closed the public comments and asked Councilmember Igleheart how he wished to proceed.

Councilmember Igleheart stated he thought that everyone should understand what Council is voting for because there is some uncertainty as to some aspects of what Council was talking about. He said, "In our short break I had a quick chance to talk to our attorney and I feel that ultimately it will work out that, we may or may not have a site plan, but it follows all the things that it will have to follow within R-1 and I think that is what everyone has asked for tonight and what we keep talking about it. I will withdraw the motion to defer."

Councilmember Dippolito confirmed for Mayor Wood that he withdrew his second to the motion to defer.

Mayor Wood noted that Council now was back to the main motion; he requested that the motion be repeated.

Repeated Motion:

Councilmember Diamond moved to approve a resolution to grant approval for the property in land lot 1236, of the First District, Second section containing 16.159 acres of the requested zoning to R-1 District to allow single family homes and included in that motion is a condition of

site plan approval by Council. A thirty (30) foot buffer on the north side of the property and the fifteen (15) conditions cited by staff. Planning and Zoning Director Brad Townsend confirmed for Mayor Wood that the motion was understood. Councilmember Wynn seconded the motion.

Further Discussion:

Councilmember Orlans noted that some people took offense at Mr. Corley's statements but Mr. Corley made some valid points. Councilmember Orlans said he has been on Council for twenty years and had seen many different developments with different quality come into the City. He said that he was in favor of the R-1 tonight to get it settled to fit for legal reasons; it is true that a very cheap project could be placed on a very large lot or there could also get a very good project on a smaller lot. Councilmember Orlans said he thought it would have been worth taking the deferral tonight in order to have a discussion regarding R-2 so that it was not sitting out there unknown. He said it appears that we are headed for approval of R-1. Councilmember Orlans said if the applicant decides to try to come back and work with an R-2, he would hope that the homeowner association presidents and residents would take the time to sit down with the developer because there is a need for quality builders and developers working in our area.

No further comments.

Vote: The motion passed unanimously.

6. Approval of a Resolution to Accept the Strategic Economic Development Plan (SEDP) for the City of Roswell.

Councilmember Diamond introduced this item. Community Development Director Alice Wakefield stated this resolution is for acceptance of the Strategic Economic Development Plan (SEDP). The process for development of this SEDP began in January 2011. She noted that originally it was thought to be a nine month process. Ms. Wakefield stated the SEDP includes economic development strategies and how to facilitate that in the City. In order to assist staff and the consultant with that effort, a twenty-four member advisory committee was established. The SEDP document is a "laundry list" of those economic development activities. Some of the most important information is the target industries that the City should and could market, as well as the implementation strategy. Ms. Wakefield stated the SEDP is "very comprehensive and serves as a reference, a menu, and a marketing tool." She explained that with Council's acceptance of this document, the City would not be obligated to anything within the document but it would however, be a guide book for the Roswell Business Alliance (RBA), which soon assumes the duties of economic development for the City. [The next step would be for the RBA, the Downtown Development Authority (DDA), and City staff to work on the "work plan." She noted that Steve Stroud, of the RBA was in attendance and that "basically, this becomes his document." She noted that the Community Development Department looks forward to working with him.

Mayor Wood invited Mr. Stroud to the podium and inquired about the first concrete step beyond the plan. Mr. Stroud replied, "The first concrete step is one of your committee members, Mr. Tom LaDow, as the new chairman of the appointed committee by the Roswell Convention and Visitors Bureau Board. Tom will be assisted by Paul Addalia, Alex Paulson, Bill Hardman, Brian Chamberlain, and Ken Davis in that committee; I will also sit on that committee. We will work with staff and we will work with DDA to put together after this menu, the implementation plan to try to move forward." Mayor Wood asked what his target date of when this plan would return to Council. Mr. Stroud replied, "We, as the RBA, will be back at work session on September 24, 2012. Mr. LaDow and I will have a report for you on the 24th of September." The report will tell

where the RBA is headed with the City's economic development. Mayor Wood stated that it is good to have this committee active and that he and Council look forward to presentation of the on September 24, 2012. Mr. Stroud stated there are some things on the plan that would be coming back to Mayor and Council at work sessions which the RBA would like to try to initiate with staff. Many of the items have been highlighted that we are already implementing through RBA and a report on that will be provided. He stated that Councilmember Diamond and City Administrator Kay Love are aware.

Council Comments:

Councilmember Diamond said that in addition, the executive board has asked for some guidance from Mayor and Council regarding priorities. She noted that Council may have that coming their way in the new future.

Motion: Councilmember Diamond moved for **Approval of a Resolution to Accept the Strategic Economic Development Plan (SEDP) for the City of Roswell.** Councilmember Orlans seconded.

Council Questions:

Councilmember Price stated the agenda stated the item was to accept the plan. Mayor Wood confirmed that was correct and clarified that it was a motion to accept the plan, not approve.

Public Comment:

Janet Russell, 260 Willow Springs Drive asked where she could find a hard copy of the plan to read. Mayor Wood offered his copy of the plan to Ms. Russell. No further public comments were made.

Council Comments:

Councilmember Dippolito noted that he had read this plan numerous times and what really stood out to him was that the first guiding principle on the list is to enhance the quality of life for Roswell businesses and residents, which he emphasized as being an important component of this plan. The City continues to discuss economic development but one of the main purposes of this it to enhance the quality of life, which should be emphasized. Mayor Wood agreed.

Vote: The motion passed unanimously.

7. Approval of a Resolution to Accept the Historic Gateway Master Plan project completed by Duany Plater-Zyberk & Company (DPZ).

Councilmember Diamond introduced this item. Community Development Director Alice Wakefield stated this request is for approval of a resolution to accept the Historic Gateway Master Plan. The plan was to follow-up the efforts of the Transportation Department as they look at South Atlanta Street and the lights. This plan has been vetted in the community with Mr. Duany and Scott Ball, DPZ Senior Project Manager. Several meetings have been held. The plan includes a Master Plan, Design Standards, Cultural Resources, Historic District Design Guidelines, Urban Score, Land Use Analysis of One-way Pair Alignment Option, and Revision to Historic Design Guidelines that were prepared by the Georgia State University. Ms. Wakefield stated the Atlanta Regional Commission (ARC) conducted a preliminary review of the master plan and found that it meets the criteria set forth in their scope of work requirements. It is important that Mayor and Council accept this plan so that it can be forwarded to the ARC in order to continue to the next step regarding the Comprehensive Update of the Atlanta Street Livable

Centers Initiative (LCI) as required by the ARC. She noted that staff would also be looking at combining it with the mid-town project. Ms. Wakefield explained that in terms of the Historic Gateway Master Plan, the Transportation who has been working with the Community Development Department in looking at various sketches and conducting more detailed work on those items. In addition, some of the recommendations of the Design Guidelines will move forward during the analysis and the re-write of the Zoning Ordinance. The Community Development Department will continue to work with Transportation on the elements that came out of this plan; Community Development will also ask the Historic Commission to provide recommendations as it relates to the Recommendations for the Historic District Guidelines, in order for those two to be incorporated in the re-write of the Zoning Ordinance.

Motion: Councilmember Diamond moved for **Approval of a Resolution to Accept the Historic Gateway Master Plan project completed by Duany Plater-Zyberk & Company.** Councilmember Price seconded.

Mayor Wood said one item he would like to be looked at, one which would not be expensive and time consuming to implement if Council choose to do so, and that was to modify the view from Mimosa Street to Bulloch Hall by lowering the grade. He noted that he was certain where Council stands on this but he requested that it be brought forward to Committee for discussion to consider lining up of trees to improve the view. If Council chose to implement that part of the recommendation, it would be simple and quick. Ms. Wakefield confirmed that her department would coordinate that with Recreation and Parks.

Council Comments:

Councilmember Dippolito asked if this item approval included the design standards within. Mayor Wood replied this is not an approval but an acceptance. Ms. Wakefield added that that the approval is for the acceptance of all of the components that were submitted by DPZ which will then be re-worked and incorporated into the re-write of the Zoning Ordinance. Councilmember Dippolito stated his concern is that the City has spent a year and a half coming up with design standards for Groveway and that Council has not yet had a work session on these designs. Ms. Wakefield replied, "No sir. That is why we are only accepting them for the purposes of sending it to ARC." Councilmember Dippolito, referring to the one-way pair alignment, said he saw that it included a land-use analysis which was all negative analysis. He asked if this is the acceptance of that analysis as well. Ms. Wakefield replied that Council was not agreeing to it necessarily but that it would be acceptance of the consultant's opinion; she explained that Community Development staff will continue to work with the Department of Transportation on that. Councilmember Dippolito noted that a gentleman in the audience who was particularly concerned about the one-way pair. He noted that there are approximately twelve bullet points all of which are in opposition to the one-way pair as presented by the consultant.

Public Comments:

Janet Russell, 260 Willow Springs Drive, noted that the City was fortunate that Mr. Duany came to consult for the City free of charge. Ms. Russell stated Mr. Duany was totally opposed to the one-way pairs. She stated that she was a member of the citizen community which met for eighteen months. The other Historic Gateway Committee was a "waste of a citizen's time" because everything they decided was completely against what Mr. Duany decided but she was pleased with his decisions. Ms. Russell stated she was against the one-way pairs. She stated, "If you have a fire engine that has to go down that street to get to a fire, they cannot go down the wrong way to get to the fire on the other side of the street. Since none of you live in that area, and it is not just about commuters, I want to remind you of the little common factors called life."

Second, that is a school bus route and you cannot have school buses going one-way going all the way down, cutting across and going back.” Mayor Wood interjected and noted that Council had already abandoned the one-way. Ms. Russell stated, “She just said noted that Ms. Wakefield has just mentioned that it was in the record.” Mayor Wood replied the record would also reflect that the Council at the last time they were polled had abandoned that option. Ms. Russell argued that this point was “as important as the three hours we just spent listening to those people worried about their property values and their bullock way of life on dirt roads.” Mayor Wood reiterated that Council has agreed with Ms. Russell’s position and are no longer supportive of the one-way pair. Ms. Russell stated that it should be stricken from this acceptance of this item because it was just said that “one-way pairs was in there and I heard it.” Mayor Wood said he apologized if we had misstated. Ms. Wakefield replied, “It must be late because it was not my intent to say ‘one-way pairs was accepted.’ When Councilmember Dippolito raised the issue that there was an analysis that was done by DPZ not supporting it and that is in the document. No way does the Master Plan, at least for Community Development standpoint, has taken a position one way or the other regarding the one-way pairs or the current alignment. We are following the lead of the Department of Transportation and this Council. If this Council’s decision is that one-way pairs are not supported, then one-way pairs are not supported. I must have misspoken but that was not basically what I thought I had said.” Mayor Wood clarified that the City apologized if we misspoke. He emphasized that the last time Council was polled the one-way pair did not have their support and was no longer pursuing the one-way pair.

Karim Abul, Roswell, commended Council for “the removal of the one-way pair disaster from his neighborhood.”

No further public comment. No further Council discussion.

Vote: The motion passed unanimously.

Councilmember Diamond commended Community Development staff for their outstanding efforts on the Gateway Master Plan, the Strategic Economic Development Plan, re-writing City code, outsourcing Code Enforcement and Building Inspections, re-doing all of their computers, as well as their day to day jobs.

8. Approval of an Amendment to Chapter 14, Parks, Recreation, and Cultural Affairs, and Chapter 15, Reserved, of the City of Roswell Code of Ordinances. (Second Reading)
Councilmember Diamond introduced this item. Community Development Director Alice Wakefield explained that this is the second reading of this comprehensive amendment to the code regarding Special Events. Ms. Wakefield stated the provisions related to Special Events are currently in Chapter 14 which is Parks, Recreation, and Cultural Affairs. This ordinance requests that Chapter 15, which is currently reserved, be utilized for Special Events in conjunction with use of City facilities and film permits. The first reading of this proposed text amendment was on July 23, 2012. Ms. Wakefield stated this proposed text amendment includes a clear definition of Special Events; an exemption, application requirements; the major component of this ordinance is an application for sponsorship and City resources in conjunction with Special Events. There was an issue at first reading regarding Council’s request for flexibility related to the deadline for those applicants for sponsorship. Ms. Wakefield stated staff conducted research of similar cities to determine what they require. Ms. Wakefield displayed overhead the sections which were added: Section 15.1.9 (a): *In special circumstances, as determined in the sole discretion of the Mayor and City Council, applications for sponsorship may be accepted after the deadline for first time applicants up to 60 days prior to the event.* Ms. Wakefield explained that sentence will give

Mayor and City Council the discretion to waive that deadline such that those applicants that were not aware of the deadline for sponsorship to be considered. Ms. Wakefield respectfully asked for approval and noted that staff would return to Mayor and Council at a later date regarding City facility use, film and video production, and seasonal business and temporary use. Mayor Wood asked when this text amendment would become effective. City Attorney David Davidson replied if approved, it would be today. Mayor Wood asked when the next deadline for applicants would be. Ms. Wakefield replied, "This will not come into play in terms of sponsorship until those events that will occur March 1 to June 30 of next year." Mayor Wood stated, "If we pass this tonight, and if you have an event which is in December, you will not go through this process; but if it is in March to June, you go thru this process and from then on you go through this process." Ms. Wakefield stated that is correct. Mayor Wood clarified that there is plenty of time for folks to become familiar with this and for the City to get the word out. Ms. Wakefield agreed. She said a letter will be mailed out to every special event applicant; a meeting will be on August 28, 2012 for all applicants to familiarize and educate the applicants on the new process.

Council Comments:

Councilmember Price inquired about the last line in Section 15.1.1 which refers to private social gatherings which will make no use of City streets other than for lawful parking are not included. She asked if that sentence should be under Exemptions, Section 15.1.2. Ms. Wakefield stated that would be up to the Council but it could be put in under Exemptions with a clarification for the applicant that if they are having a private gathering, they would not be utilizing the City streets and not subject to this regulation. Councilmember Price stated, "Then you do not need to put 'Are not included' because it would be under Exemptions." Councilmember Price asked if it included a cul-de-sac party. Mayor Wood stated that would be a City street. Councilmember Price asked if a cul-de-sac party would not be allowed. Ms. Wakefield stated they would be allowed but it would require an application for approval. Community Development will alert PD and Transportation; this is normally handled quickly.

Councilmember Igleheart, referring to Councilmember Price's concern regarding the wording, said there is actually a purpose for having it right there as opposed to somewhere later in the ordinance. Mayor Wood suggested that it be added in both places. Councilmember Price suggested that it be deleted because it is redundant. Mayor Wood suggested that the wording should not be drafted this late in the evening.

City Attorney David Davidson conducted the reading of an **ORDINANCE OF THE CITY OF ROSWELL, GEORGIA TO AMEND CHAPTER 14, PARKS, RECREATION & CULTURAL AFFAIRS AND CHAPTER 15, RESERVED** stating: NOW, THEREFORE, BE IT ORDAINED, and it is hereby ordained, that Chapter 14, Parks, Recreation & Cultural Affairs and Chapter 15, Reserved, of the Code of Ordinances of the City of Roswell is amended as follows:

1.

The *Roswell Code of Ordinances* is hereby amended by deleting *Section 14.3 Special Events*, and establishing a new *Chapter 15, Special Events, Filming, & Public Use of City Facilities*, including *Section 15.1 Special Events* to read as follows:

Section 15.1.1 - Special Event Defined; Permit Required

Special event, as used in this article, means any activity which occurs upon private or public property:

- (a) that will affect the ordinary use of parks, public streets, rights-of-way or sidewalks;
- (b) disrupts the flow of traffic on public streets or sidewalks.

No person or organization shall conduct a special event without first having obtained a special event permit from the City of Roswell. Private social gatherings which will make no use of city streets other than for lawful parking are not included.

Section 15.1.2 - Exemptions

The following activities are exempt from the Special Event Permit Requirement:

- (a) funeral processions;
- (b) activities conducted by the City of Roswell acting within the scope of its authority;
- (c) activities involving a demonstration, march, assembly, or other exercise of rights guaranteed by the First Amendment of the United States Constitution which are regulated by Section 18.4 of this code unless the criteria in Section 15.1.1 are met;
- (d) film productions which are regulated by Section 15.2 of this Code;
- (e) use of City facilities which is regulated by Section 15.3 of this Code;
- (f) temporary/seasonal businesses which are regulated by Section 10.15 of this Code.
- (g) Private social gatherings which will make no use of city streets other than for lawful parking are not included.

Section 15.1.3 – Application: Deadline, Content, and Fee.

- (a) A complete application for a special event permit shall be submitted to the community development department:

- 1. not less than two (2) weeks prior to an event if City resources are not required;
- 2. not less than thirty (30) days prior to a recurring event if City resources are required;
- 3. not less than sixty (60) days prior to a new event or recurring event with a change in venue/route if City resources are required;
- 4. not more than one (1) year prior to an event; or
- 5. by the deadlines stated in Section 15.1.9 for organizers requesting sponsorship of City resources.

- (b) The following information shall be provided in the application:

- 1. Name and Purpose of the special event;
- 2. Name, mailing address, telephone number, and email address of applicant
- 3. Name, mailing address, telephone number, and email address of event coordinator if applicant is an organization;
- 4. Proposed date and times the event will be conducted;
- 5. Proposed route to be traveled, the starting point and termination point, and any closures of streets, sidewalks, or rights-of-way requested (if applicable);
- 6. Site plan with a map or diagram showing the area to be used, the location of any equipment, vendors, game booths, stands, stages, seating and other facilities, the areas to be used for parking, the location of toilet facilities and water as necessary for the event, any areas where alcohol will be served or sold including a description of the barriers to be used to enclose them;
- 7. Projected number of persons and vehicles at the event;
- 8. Schedule of activities within the event;
- 9. Description of sound equipment to be used;
- 10. Sanitation Plan

11. A certification that the applicant will be financially responsible for any City fees or costs that may be imposed for an event; and
 12. Any other such information as any city department deems reasonably necessary to determine that the permit meets the requirements of this article.
- (c) The complete application shall be submitted with a nonrefundable payment based on the fee structure established by the City of Roswell.

Section 15.1.4 - Standards for Denial of Permit

Reasons for denial of a special event permit include:

- (a) An application has already been submitted for the same event on the same day at the same location.
- (b) The event interferes or conflicts with previously scheduled special events, construction, maintenance, or other City activities;
- (c) The event will disrupt traffic within the city beyond practical solution;
- (d) The event will interfere with access to fire stations and fire hydrants;
- (e) The location of the special event will cause undue hardship to adjacent businesses or residents;
- (f) The event will require the diversion of so many public employees that allowing the event would unreasonably deny service to the remainder of the city;
- (g) The application contains incomplete or false information;
- (h) The applicant fails to comply with all terms of this article including failure to remit all fees and deposits or failure to provide proof of insurance, bonds, and a save harmless agreement to the city.
- (i) There is a documented history of problems relating to the event in the past or the applicant, sponsor or promoter has not properly managed or paid all fees for prior events.

Section 15.1.5 - Administrative Review

The community development department shall send copies of special event applications to affected departments. Each department shall review the application and note the resources which it will be required to perform, the number of personnel to perform such activities, the length of time to perform such services, and the cost to perform such services.

Section 15.1.6 – Special Conditions on Permit

Each department reviewing an application may impose in writing certain conditions or restrictions as deemed necessary to facilitate the event, to comply with other laws or regulations, and/or to ensure the safety, health, and welfare of the community. The conditions or restrictions of the departments shall become a part of the permit.

Section 15.1.7 – Permit Fees and Issuance

(a) The community development department shall determine and calculate permit fees based on all services to be provided by the government for such event and shall be equal to the estimated actual cost to the government to provide such services. The initial permit fee shall be the aggregate of the estimated costs of such services calculated by each government department. If, at the conclusion of the event, the cost of government services is greater than the initial payment, the applicant shall be responsible for the difference. Failure to pay the outstanding amount within 30 days of the billing date shall be a violation of this chapter and shall subject the applicant and/or organization to late fees and other penalties up to and including denial of future permits.

- (b) The initial permit fee must be paid in full prior to the issuance of a permit and no later than ten (10) business days prior to the date of the event.
- (c) The fees required in this section shall be in addition to any other fees which may be required by any other ordinances or regulations that might be applicable.
- (d) Upon receipt of the permit fees as stated in this section, the community development director or his or her designee shall issue the special event permit to the applicant.

Section 15.1.8 – Temporary Road Closure

Road closure(s) may be granted temporarily for permits issued pursuant to this article upon approval of the Chief of Police or his/her designee and the Director of Transportation or his/her designee.

Section 15.1.9 – Applications for Sponsorship of City resources in conjunction with a Special Event

- (a) All applications for sponsorship of City resources shall be submitted in conjunction with a special event permit application to the community development department. Sponsorship applications must be submitted by March 31 for events planned for July through December of the same year or by September 30 for events planned for January through June of the following year. In special circumstances, applications for sponsorship may be accepted after the deadline for first time applicants only. In special circumstances, as determined in the sole discretion of the Mayor and City Council, applications for sponsorship may be accepted after the deadline for first time applicants up to 60 days prior to the event.
- (b) The decision whether to grant sponsorship of City resources shall be based on how effectively the event satisfies the criteria listed below. An event held by an organization that is located in Roswell or which supports Roswell residents and/or businesses will be given priority.
 - 1. The event is open to the public and public participation is invited.
 - 2. The event will benefit Roswell residents.
 - 3. The event provides cultural and educational enrichment.
 - 4. The event promotes family values and is the type of activity or entertainment appropriate for families.
 - 5. The event will benefit Roswell's economy.
 - 6. The event will be marketed and advertised throughout North Fulton.
 - 7. The event will promote the image of the City of Roswell in a positive manner.
 - 8. The event is sponsored by a nonprofit organization and at least fifty (50) percent of all proceeds will go to a nonprofit organization.
- (c) The Mayor and City Council shall approve or deny requests for sponsorship of City resources and if approved shall determine the cost, type and extent of City assistance to be provided to such event. The Mayor and City Council have the right to reject a request for sponsorship.
- (d) A notice of decision regarding sponsorship of City resources shall be sent to the applicant at the physical or email address stated on the application.
- (e) Applicant is responsible for any permit fees remaining after sponsorship has been applied to the total cost of the event.

Section 15.1.10 - Insurance Required.

At the city's request, the applicant may be required to obtain and present evidence of a surety indemnity bond or comprehensive liability insurance naming the city as an additional insured. The insurance requirement is a minimum of \$300,000.00 personal injury and \$100,000.00 property damage against all claims arising from permits issued pursuant to this article. If the event poses higher risks than covered by such insurance, the applicant shall be responsible for assessing the risks of the event and obtaining additional insurance coverage.

Section 15.1.11 - Save Harmless Agreement

The applicant is required to provide a save harmless agreement in which the applicant agrees to defend, pay and save harmless the city, its officers and employees, from any and all claims or lawsuits for personal injury or property damage arising from or in any way connected to the special event; excepting any claims arising solely out of the negligent acts of the city, its officers and employees.

Section 15.1.12 - Limitations of Liability

This article shall not be construed as imposing upon the city or its officials or employees any liability or responsibility for any injury or damage to any person in any way connected to the use for which permit has been issued. The city and its officials and employees shall not be deemed to have assumed any liability or responsibility by reasons of inspections performed, the issuance of any permit, or the approval of any use of the right-of-way or other public property.

Section 15.1.13 - Sanitation and Clean-Up

A special event permit may be issued only after adequate waste disposal facilities have been identified and obtained by the applicant. The applicant will clean the right-of-way or public property of rubbish and debris, returning it to its pre-event condition, within twenty-four (24) hours of the conclusion of the event. If the applicant fails to clean up such refuse, such clean up shall be arranged by the city and the costs charged to the applicant.

Section 15.1.14 - Other Permits Required

The applicant shall obtain other permits that may be required by other chapters of this Code or from other jurisdictions for this special event.

- (a) *Alcoholic beverage.* Any permit for the sale or serving of alcoholic beverages shall be in accordance with provisions of state law and chapter 3 of this Code.
- (b) *Fireworks.* Any permit obtained regarding a fireworks display shall be submitted to and approved by the City of Roswell Fire Department.
- (c) *Signs.* Permits for any signs advertising or relating to such special event shall be in accordance with the City of Roswell Zoning Ordinance, Chapter 22, "Signs and Advertising."

Section 15.1.15 - Revocation of Special Event Permit

All permits issued pursuant to this article shall be temporary and do not vest any permanent rights. Special event permits may be revoked by the Director of Community Development or his or her designee for the following reasons:

- a) Application contained incomplete or false information;
- (b) Applicant does not comply with all terms and conditions of permit;
- (c) Applicant fails to arrange for or adequately remit all fees, deposits, insurance or bonds to the city;

- (d) Disaster, public calamity, riot or other emergency exists;
- (e) Event threatens public safety, health, or welfare.

Section 15.1.16 - Appeal Procedure

Any applicant whose special event permit application has been denied or revoked may request a review of this decision by the city administrator. This request must be in writing and received by the city administrator within five (5) business days of the notice of permit denial or revocation. The applicant may appeal the decision of the city administrator to the mayor and city council by filing a written notice of such appeal to the City Clerk within five (5) business days of the notice of denial of the applicant's appeal by the city administrator. The mayor and council shall set a hearing date within fifteen (15) days of receiving such appeal request. At such a hearing, the applicant is entitled to be heard and present evidence in his behalf. The mayor and city council shall determine whether the denial or revocation of the permit is justified.

Section 15.1.17 – Special Event Permit at Event

The event organizer shall have a copy of the Special Event Permit on-site during the entire event and shall furnish the permit at the request of any City official.

Section 15.1.18 - Penalty for violation

Violation of any of the sections of this article or any part thereof shall be punishable as provided in section 1.1.3 of this Code.

Motion: Councilmember Diamond moved for **Approval of an Amendment to Chapter 14, Parks, Recreation, and Cultural Affairs, and Chapter 15, Reserved, of the City of Roswell Code of Ordinances. (Second Reading)** Councilmember Wynn seconded. Public comment invited.

Public Comment:

Janet Russell, 260 Willow Springs Drive, referring to page 4, Section 15.1.9 (8): *The event is sponsored by a nonprofit organization and at least fifty (50) percent of all proceeds will go to a nonprofit organization.* Ms. Russell asked who will monitor and what is the reporting on how much money will go to a nonprofit organization; who will verify that it is true. Ms. Russell asked if there is a limit on how many sponsorships the City will do. She noted that it had been a budget discussion at one time and that there would be a limit regarding City sponsored/partnered events. Mayor Wood clarified that there had been budgeted amounts discussed that Council would approve. The Mayor clarified that as far as reporting, the City would have the option of checking and conducting an audit, but not an obligation; if a question arose, the City could conduct an audit. Ms. Russell asked if when an organization asks for sponsorship, are they required to show proof that they are a 501 (c)(3) organization tax certificate. Mayor Wood replied there are organizations which the City is familiar with and some that are questioned and checked.

Ms. Russell, referring to Special Event Defined; Permit Required, asked if that applies to the event Alive After Five. Ms. Wakefield replied yes.

Amended Motion: Councilmember Price amended the motion to delete the final sentence in Section 15.1.1, and add it as (g) in Section 15.1.2.

Mayor Wood asked City Attorney David Davidson if Councilmember Price's amendment to add that sentence to Section 15.1.2 is essential or is it optional. The Mayor asked if it is currently

clear or that this amendment should be done to make it clearer. Mr. Davidson replied, "I think it is in there to clarify the sentence before it, so I think it is clear the way it is now, however, if you want to put it in the Exemptions, that is fine, too." Councilmember Price replied, "Everything in the exemptions could follow that sentence." Mayor Wood suggested that Councilmember Price's suggestion be added to both Sections.

Councilmember Orlans seconded the amended motion.

Vote: The amended second reading of the ordinance passed unanimously.

9. Approval of an Amendment to Chapter 5, Article 5.3 Building and Technical Codes and Section 5.4.39 Required Inspections, of the City of Roswell Code of Ordinances. (First Reading)

Councilmember Diamond introduced this item. Community Development Director Alice Wakefield explained that this is the first reading of this proposed text amendment. Ms. Wakefield stated, "This matter was discovered as we moved forward with the transition of Building Codes and Code Enforcement." This is to update Chapter 5 to reflect the most current Georgia State Minimum Codes to reflect the required inspection as related to the codes and; to change the language "Chief Building Inspector to Chief Building Official." City Attorney David Davidson conducted the reading of an **ORDINANCE OF THE CITY OF ROSWELL, GEORGIA TO AMEND SECTIONS 5.3.1, 5.3.2, 5.3.3, 5.3.5, 5.3.6, 5.3.9, 5.2.11, 5.3.12, and 5.4.39 OF CHAPTER 5 - BUILDING AND CONSTRUCTION** stating: The Mayor and Council of the City of Roswell, pursuant to their authority, do hereby adopt the following Ordinance:

1.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.1 Building and Construction –Adoption by Reference in its entirety** and substituting a new **Section 5.3.1** to read as follows:

Section 5.3.1 - Building and Technical Codes—Adoption by Reference.

(a) The following technical and building codes, including the latest edition of each as adopted and amended the latest editions of the following Georgia State Minimum Standard Codes, adopted by reference and shall be enforced in the City of Roswell:

- (1) International Building Code
- (2) National Electrical Code
- (3) International Fuel Gas Code
- (4) International Mechanical Code
- (5) International Plumbing Code
- (6) International Residential Code.
- (7) International Energy Conservation Code
- (8) International Fire Code
- (9) International Residential Code, Appendix G.
- (10) International Existing Buildings Code
- (11) Standard Unsafe Building Abatement Code
- (12) International Property Maintenance Code

(b) The following code is adopted insofar as it does not conflict with the Georgia State Minimum Standard Codes

- (1) National Green Building Standards

(c) The codes listed in subsection (a) of this section shall mean such codes as they exist, provided that any such code may hereafter be amended as provided in O.C.G.A. § 8-2-20(9).

- (d) Any matters in any standard code adopted by this section which are contrary to or inconsistent with any existing ordinance of the City of Roswell shall prevail over such ordinance and such ordinance shall stand repealed to the extent of the inconsistency or conflict.
- (e) Unless otherwise specified, when the standard codes refer to the duties of certain officials named therein, the official of the City of Roswell who has duties corresponding to those of the named individual in such standard code shall be deemed to be the responsible official insofar as enforcing the provisions of such standard code.

2.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.2 Applicability** its entirety and substituting a new **Section 5.3.2** to read as follows:

Section 5.3.2 - Applicability.

- (a) *General.* Where, in any specific case, different sections of these codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (b) *Building.* The provisions of the International Building Code, as amended, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition, of every building, or structure or any appurtenances connected or attached to such buildings or structures, except in one- and two-family dwellings.
- (c) *Electrical.* The provisions of the National Electrical Code, as amended, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.
- (d) *Gas.* The provisions of the International Fuel Gas Code, as amended, shall apply to the installation of consumer's gas piping, gas appliances and related accessories as covered in this Code. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories, except in one- and two-family dwellings.
- (e) *Mechanical.* The provisions of the International Mechanical Code, as amended, shall apply to the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy-related systems, except in one- and two-family dwellings.
- (f) *Plumbing.* The provisions of the International Plumbing Code, as amended, shall apply to every plumbing installation, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances, and when connected to a water or sewerage system.
- (g) *Fire prevention.* The provisions of the International Fire Code, as amended, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, of every building or structure or any appurtenances connected or attached to such buildings or structures.
- (h) *Energy.* The provisions of the International Energy Conservation Code, as amended, shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water heating, and illumination systems and equipment that will enable the effective use of energy in new building construction.
- (i) *One- and two-family dwelling.* The provisions of the International Residential Code, as amended, shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, of every one- or two-family dwelling or any appurtenances connected or attached to such buildings or structures.
- (j) *The Unsafe Building Abatement Code.* The provisions of this code provide code enforcement personnel with the necessary tools to have dangerous and unsafe buildings repaired

or demolished.

3.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.3 Standard Building Code – Appendices in its entirety and substituting a new Section 5.3.3 to read as follows:**

Section 5.3.3 - Standard Building Code—Appendix.

The City of Roswell hereby adopts Appendix G of the International Residential Code. Such standards and schedules shall be enforced in their entirety unless expressly modified in this chapter.

4.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.5 Existing Buildings in its entirety and substituting a new Section 5.3.5 to read as follows:**

Section 5.3.5 - Existing Buildings.

(a) Alterations, repairs or rehabilitation work may be made to any existing, structure, building, electrical, gas, mechanical or plumbing system without requiring the building, structure, plumbing, electrical, mechanical or gas system to comply with all the requirements of the technical codes. Any such alteration, repair or rehabilitation work must conform to the requirements of the technical codes for new construction. The chief building official shall determine the extent to which the existing system shall be made to conform to the requirements of the technical codes for new construction.

(b) If the occupancy classification of any existing building or structure is changed, the building, electrical, gas, mechanical and plumbing systems shall be made to conform to the intent of the technical codes as required by the chief building official.

5.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.6 Same-Historic Structures in its entirety and substituting a new Section 5.3.6 to read as follows:**

Section 5.3.6 - Historic Structures.

In addition to those provisions contained within the International Building Code, the following restrictions shall govern moving, demolition, or alteration of historic structures and shall be considered an amendment to the International Building Code:

No structure of any type may be moved into a historic district until the provisions of Section 765 H.R. Historic Roswell District of Appendix A—Zoning of the Code of Ordinances of the City of Roswell, approved March 18, 1974, as amended, have been complied with. Further, no structure within an historic Roswell district may be erected, demolished, removed wholly and/or in part nor the exterior architectural character of such structure be altered until referenced Section 765 has been complied with. All structures and/or buildings that are moved into the City of Roswell must be inspected and approved by the chief building official or his representative before the structure and/or building is moved into the city.

6.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.9 Codes – Administration and Enforcement in its entirety and substituting a new Section 5.3.9 to read as follows:**

Section 5.3.9 - Codes—Administration and Enforcement.

The building code shall be administered and enforced by the chief building official of the City of Roswell and his assistants. The chief building official shall have general charge and supervision of all building construction in the city and the inspector, through himself and his designated representatives, shall require all contractors and builders to conform to such code.

7.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.11 Requirements not Covered by Code** in its entirety and substituting a new **Section 5.3.11** to read as follows:

Section 5.3.11 - Requirements not Covered by Code.

Any requirements necessary for the strength, stability or proper operation of an existing, or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by this or the other technical codes, shall be determined by the chief building official.

8.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.3.12 Alternative Materials and Methods** in its entirety and substituting a new **Section 5.3.12** to read as follows:

Section 5.3.12 - Alternate Materials and Methods.

The provisions of the technical codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided any such alternate has been reviewed by the chief building official. The chief building official shall approve any such alternate, provided the chief building official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the technical codes, in quality, strength, effectiveness, fire resistance, durability and safety. The chief building official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

9.

Chapter 5, Building and Construction is amended by deleting **Chapter 5, Section 5.4.39 Permits and Inspection** in its entirety and substituting a new **Section 5.4.39** to read as follows:

Section 5.4.39 - Required Inspections.

The chief building inspector upon notification from the permit holder or his agent shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or his agent of any violations which must be corrected in order to comply with the technical code:

(a) Building:

(1) *Footing/Foundation/Foundation Wall Inspection:* To be made after trenches are excavated, the reinforcement in place, and the forms erected, prior to the placing of concrete.

(2) *Slab/Monolithic Slab Inspection:* To be made prior to the placing of concrete.

(3) *Frame Inspection:* To be made after the roof, all framing, fire blocking and bracing, are in place, all concealed wiring, all pipes, chimneys, ducts and vents are complete.

(4) *Moisture Barrier Inspection:* To be made prior to the installation of the exterior finish material.

(5)*Final Inspection*: To be made after the building is completed and ready for occupancy.

(b)*Electrical*:

(1)*Temporary Pole*: To be made after the temporary power pole has been placed, properly grounded and ready to be energized.

(2)*Underground Inspection*: To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.

(3)*Rough-In Inspection*: To be made after the roof, framing, fire blocking and bracing is in place and prior to the installation of wall or ceiling-membranes.

(4)*Final Inspection*: To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.

(c)*Plumbing*:

(1)*Underground Inspection*: To be made after trenches or ditches are excavated, piping installed, and before any backfill is put in place.

(2)*Rough-In Inspection*: To be made after the roof, framing, fire blocking and bracing is in place and all soil, waste and vent piping is complete, and prior to this installation of wall or ceiling membranes.

(3)*Final Inspection*: To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

(4)*Required Tests*: Tests performed as required by code.

(d)*Mechanical*:

(1)*Underground Inspection*: To be made after trenches or ditches are excavated, underground duct and fuel piping installed, and before any backfill is put in place.

(2)*Rough-In Inspection*: To be made after the roof, framing, fire blocking and bracing are in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.

(3)*Final Inspection*: To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

(e)*Gas*:

(1)*Rough Piping Inspection*: To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.

(2)*Final Piping Inspection:* To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.

(3)*Final Inspection:* To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes, to insure compliance with all the requirements of this Code and to assure that the installation and construction of the gas system is in accordance with reviewed plans.

(f)*Energy:*

(1)*Foundation Inspection:* To be made before slab concrete is poured in place. To verify that perimeter insulation has been installed correctly on any slab on grade foundations, if required.

(2)*Frame Inspection:* To be made before exterior wall insulation is concealed by wall board to check installation of exterior walls insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner as to restrict air passage.

(3)*Final Inspection:* To be made after the building is completed and ready for occupancy. To verify installation and R-value of ceiling and floor insulation. A completed Energy Code Compliance Certificate shall be installed in or near the electrical panel as required by code.

Motion: Councilmember Diamond moved for **Approval of an Amendment to Chapter 5, Article 5.3 Building and Technical Codes and Section 5.4.39 Required Inspections, of the City of Roswell Code of Ordinances. (First Reading)** Councilmember Igleheart seconded. No further discussion.

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

City Attorney's Report

10. Recommendation for closure to discuss acquisition of real estate.

Mayor Wood cancelled closure.

Adjournment:

After no further business, the Mayor and Council meeting adjourned at 11:58 p.m.

Date Approved: September 12, 2012

Marlee Press
Marlee Press, City Clerk

Joe Wood
Joe Wood, Mayor

