

Regular Meeting of the Mayor and City Council, Monday, February 24, 2014, 7:00 p.m., Mayor Jere Wood presiding.

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

Staff Present: City Administrator Kay Love; Deputy City Administrator Michael Fischer; City Attorney David Davidson; Deputy Police Chief James Easterwood; Environmental/Public Works Director Stu Moring; Environmental/Public Works Deputy Director Mark Wolff; Finance Director Keith Lee; Budget Manager Ryan Lockett; Accounting Manager Wendy Johnson; Contract Manager Corey Salley; Budget Analyst Lynn Williams; Transportation Director Steve Acenbrak; Land Development Manager Clyde Stricklin; Community Development Director Alice Wakefield; Planning and Zoning Director Brad Townsend; City Planner Jackie Deibel; Mayor's Special Projects Coordinator Jennie Bushey; Community Relations Manager Julie Brechbill; Community Relations Digital Media Designer Joel Vazquez; Building Operations Technician Tim Thompson; Deputy City Clerk Betsy Branch.

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

Pledge of Allegiance: Fulton Science Academy Robotics Champions; Techno Pandas. Mayor Wood announced that the students from the Fulton Science Academy (FSA) won the State Science Robotics Championship and would be going to St. Louis, Missouri for the national championship. The Mayor asked for a brief description from one of the presenters.

Priya Soneji, representing the Fulton Science Academy Elementary School Team Techno Pandas, stated this year's theme is Nature's Fury. Ms. Soneji explained that the team identified a problem found in nature, tornados; the team determined that public sirens cannot always be heard in every home to alert citizens of an approaching tornado. She explained that the FSA Techno Pandas came up with a solution to solve the problem by bringing the city sirens closer through the use of a small device which can be strapped onto a lamp post. It is basically a mini-siren which will have speakers for sound and a device to receive the signal from a 911 Center. Ms. Soneji said, "This will help people in their homes to be warned of bad weather heading their way. People can go their safe spot to be safe during a tornado or a disastrous situation."

Mayor Wood said he understood that the FSA Techno Panda Team worked with the Roswell Fire Department to develop this idea and to make this presentation. Ms. Soneji stated the students worked with Mr. Paul Piccirilli of the Roswell Fire Department, and Mr. Ed Wise of Signs for Cities; both gentlemen provided a lot of information, and the Techno Pandas appreciated their help. Mayor Wood congratulated the Fulton Science Academy Techno Pandas for their accomplishments. The Techno Pandas had their pictures taken with the Mayor and City Council.

Consent Agenda:

1. Approval of the February 10, 2014 Mayor and Council Meeting Brief.

Administration

2. Approval of City Sponsorship for the Judson Collegiate Invitational (JCI) from June 26, 2014 to June 30, 2014 and approval of Budget Amendment 10061701-02-24-14 allocating \$2,700 in FY 2014 General Fund Operating Contingency.

Community Development

3. Approval to purchase a vehicle for the Narcotics Unit in an amount not to exceed \$31,542.

Public Safety

4. Approval for the Mayor and/or City Administrator to submit a Georgia Department of Transportation (GDOT) Local Administered Project (LAP) Re-Certification.

Transportation

5. Approval for the Mayor and/or City Administrator to sign a Georgia Department of Transportation (GDOT) Indemnity Agreement for one (1) new MARTA Bus Shelter.

Transportation

Motion: Councilmember Igleheart moved to approve the Consent Agenda. Councilmember Wynn seconded. Public comments invited. No public comments were made.

Council Comments:

Councilmember Price stated she had a correction to item number one. She asked if there would be a more lengthy copy that Council would vote on. Mayor Wood noted that Consent Agenda Item #1 was just the brief and was not the full record. Councilmember Price stated the abstention was not named on Item #7. Mayor Wood stated it would be named on the full record.

Councilmember Price, referring to Consent Item #4, said she noticed that the deadline had been missed; she asked if that would present a problem. Mayor Wood asked City Administrator Kay Love to respond. Ms. Love explained that Transportation Director Steve Acenbrak had been in touch with GDOT regarding that date and it is fine; GDOT is aware that it is on the agenda this evening for approval. Councilmember Price thanked Ms. Love.

Vote: The motion to approve the Consent Agenda passed unanimously.

Recognition of Boy Scouts in attendance.

Mayor Wood welcomed and recognized the Boy Scouts who were in attendance, asking them to come forward and quickly introduce themselves.

The following scouts came forward to the podium, stated their name, troop number, and the badge they were working on:

Luis Jimenez, Troop 7153; working on his Citizenship in the Community Merit Badge.

Jordan Minden, Troop 629; working on his Communications Merit Badge.

Jeff William; Troop 87; working on his Citizenship in the Community Merit Badge.

Andrew Becker, Troop 87; working on his Citizenship in the Community Merit Badge.

Brandon Crow; Troop 87; working on his Citizenship in the Community Merit Badge.

David Gonzalez; Troop 87; working on Communications Merit Badge.

Mayor Wood noted that Councilmember Dippolito was a life Scout; Councilmember Orlans was a life Scout; Councilmember Price is the mother of an Eagle Scout. Mayor Wood is an Eagle Scout with Troop #87.

Regular Agenda:

Mayor's Report

1. Approval of Planning Commission, Design Review Board, and the Downtown Development Authority reappointments.

Mayor Wood stated this item was the nomination for Sydney Dodd for the Planning Commission (3-year term); Tom Flowers for the Planning Commission (3-year term); and Ralph Mills for the Downtown Development Authority (4-year term).

Motion: Councilmember Dippolito moved for **Approval of Planning Commission, Design Review Board, and the Downtown Development Authority reappointments.** Councilmember Orlans seconded. No further discussion. The motion passed unanimously.

Administration and Finance Department - Councilmember Kent Igleheart

2. Approval of the selection method for the Roswell Municipal Court Judge.

Councilmember Igleheart introduced this item. Deputy City Administrator Michael Fischer presented the item and stated this is the Council decision for the selection method to fill the vacant position for the Roswell Municipal Court Judge. Council has discussed two options in the past. One option is to have the Chief Municipal Judge of Roswell elected; the other option is to have the Chief Municipal Judge of Roswell to be appointed. Mr. Fischer explained that should Council decide on the election method, that election would be held on May 20, 2014, as part of the State General Election. If Council decided upon the election method, the advertisement would go out immediately to announce that election and to announce the qualifying. Qualifying would be the week of March 3 through March 7, 2014 because of the requirement to get the ballot question to Fulton County on the deadline of March 12, 2014. The City of Roswell would enter into a contract after that with Fulton County. Fulton County manages the election, the polls, and the process. Mr. Fischer stated, "Should you decide tonight to appoint a Chief Municipal Judge you can make that decision tonight with the authority that you have from state law O.C.G.A. 36-32-2. In order to do that tonight you just need to make the decision. If you want to appoint, there is a motion that can be made that would basically have the judges that we are currently using to be continued to be used, under your authority to appoint. We would then work through the process that we discussed through the committee meeting to work through the interview process, the identification process for any qualified candidates that you may want to appoint one. So, tonight, what we are looking for is that final decision on what the process would be; how we need to proceed in filling the Chief Judge position."

Mayor Wood stated he would take any Council questions before entertaining a motion.

Mayor Wood said, "As I understand it, the Council needs to make a decision tonight to either go one way with the election of a judge or the other with an appointment." Mr. Fischer stated that was correct.

Council comments:

Councilmember Price stated, "There was something in the packet that says a decision is necessary this evening. There really isn't a decision that is necessary because we called for an election in the fall. If we do nothing, we will have an election. Is that correct?" Mr. Fischer stated that is correct. Councilmember Price replied, "So why is there a decision necessary tonight?" Mr. Fischer replied, "Because of the amount of discussion that we have had in the past from some of the other Councilmembers to look into whether or not we want to try to appoint. We called the election when we did to meet some deadlines, but since that time there has been discussion on whether or not to appoint. We need to have your decision tonight."

Mayor Wood stated, "Let me rephrase the question for Councilmember Price. If no motion is passed tonight, do we need a motion to move forward with the election with Fulton County?" Mr. Fischer replied, "No sir." Mayor Wood asked, "Is that automatic?" Mr. Fischer replied, "It is right now because we have called for the election." Mayor Wood replied, "So if there is no motion passed tonight, then there will be an election May 20, 2014, qualifying will be March 3 through March 7. That would be if no motion is passed; March 3rd we will have qualifying." Mr. Fischer stated that is correct.

Mayor Wood stated Councilmember Price is correct.

Councilmember Price replied, "I appreciate you rephrasing my question but I think it was adequate. In our packet it says it is necessary to make a determination tonight. There is no necessity to do anything. We are on track for an election."

Mayor Wood replied, "If no motion is passed tonight, that is accurate; if there is no motion to do an appointment."

The Mayor called for any other questions. The Mayor called for any motions.

Councilmember Igleheart stated, "This has been one of the most vexing questions we face in Roswell for a long time. I can actually understand and agree with both sides. I think there has obviously been a lot of information presented to us about an appointment. I am concerned about some of what looks like bias towards appointment; however it is probably likely that we would get a better qualified judge if we did appoint. But frankly, you could probably say that about Mayor and Council that we could probably do the same, but we don't. I also heard from more Roswell residents about this issue than probably any other issue that I can remember in a long time on Council. One hundred percent almost have been for retaining an elected judge. They are either very proud to be the only city in Georgia that does that or they just don't think we should take away the votes. I personally could go either way. I know that most of you know I have no problem taking a stand but when I am not certain on one thing I am willing to follow what I think most constituents have told me that they want. I will not be making a motion tonight, which I think does default to the election moving forward. If anybody else wants to make a motion, I have a copy of what I was provided, for the other way."

Mayor Wood called for any motions from the floor.

Motion: Councilmember Orlans moved to declare that the City of Roswell is changing to a system of **appointing Judge pursuant to State law, specifically 36-32-2**, because we believe that such a system is in the best interest of the City; therefore, we hereby we rescind the call for a

Special Election on May 20, 2014, to fill the office of Chief Judge of the Municipal Court of the City of Roswell which we made September 28, 2013. Further, pursuant to O.C.G.A. 36-32-2, we hereby appoint the stand-by judges we previously appointed on August 26, 2013 and October 14, 2013, to continue to serve as stand-by judges at the pleasure of the Mayor and Council. These Judges are Richard Hicks; Barry Zimmerman; Brian Hansford; Don Schaefer; Mazi Mazloom; Roy Roberts; Melinda Davis Taylor; Roger J. Rozen; Nathan Wade; Claude D. Mason; Chung H. Lee; Darrell R. Caudill, Jr.; Jonathan Granade. Further, I move that Mayor and Council hereby direct staff to develop and present to the Administration Committee proposed methods to select and appoint a Chief Judge and any charter change staff may recommend to conform the city charter to state law and to an appointed system. Councilmember Wynn seconded the motion.

Mayor Wood stated he would entertain Council comments before Public discussion was opened.

Mayor Wood stated he would make his comments; he said, "I am probably the only sitting Council member who has actually practiced in the Municipal Court of the City of Roswell. In fact, I am certain I am. As a practicing lawyer before I was mayor I used to practice in that court. I am also the only one sitting up here who has run for judge for the City of Roswell. I will have to tell you I was not successful in that race, Maurice Hilliard was and he has done a great job as our judge. I have talked to a lot of people about this subject. I have not received any calls as some of the Council members have asking that we retain the elected position. I made my calls to practicing attorneys and asked them for their opinion on which method would probably lead to the best qualified judge, not in every case, but is most likely to get a good qualified judge or judges to hear your case, recognizing that we want someone who is honest, who is capable, and who will render a fair decision. Of the practicing attorneys that I spoke with, their recommendation is that we go with an appointed judge. For that reason, and because I have not heard from citizens asking that we retain the elected position, if it came to a tie, I would be voting for the appointed judge."

Council comments:

Councilmember Price stated she had not been in favor of this mainly because "it really didn't come from anyone on Council." She said, "There has been a huge advocacy movement to get us to this point, including citing cases that really weren't pertinent and the sense that the electorate can't be trusted to elect the proper person. It is possible that they made the right choice a few years back when they elected a different judge Mr. Mayor but I wouldn't be presuming to insult you in that fashion. However, I think there are good reasons to retain our current system, one of which being that it is in our charter, that I was sworn to uphold. I know there is a state law saying that we can appoint regardless of our charter, however that is not a mandate that we must, and I know that some of the advocacy persons have been suggesting that we have been operating illegally, and that is certainly not the case. I will not be in favor of altering our current method of electing judges, and I trust the electorate to put the proper person in place."

Councilmember Orlans stated, "As Councilmember Igleheart said, there has been a lot of discussion on this, a lot of input from different people. I've talked to a lot of attorneys as well; tried to talk to people that were practicing in our courts. I think all we are trying to do is get to a more efficient and professional court system to operate for our citizens. I just feel that going forward following state law, the appointment method will be a better method for us to go forward with."

No further Council comments.

Public comments:

Janet Russell, stated she has been in Roswell for 41 years. The judge has always been elected during that time. Ms. Russell said she agreed with Councilmember Price regarding the charter. Ms. Russell said she was concerned about several things regarding appointment. She said, "I am really concerned about a separation of powers here. We have it at the federal level, the state level, we need to keep it at the city level. I don't really want a judge who is appointed and if you don't like what he decides, you just get rid of him." She said she did not care what attorneys think who live outside of the City of Roswell. Ms. Russell said, "We are the only city left in the state of Georgia with an elected judge."

Lee Fleck, Martins Landing, said he supports the current method of selecting municipal judge, as currently stated in the City Charter that each Councilmember swore to uphold prior to taking office. Mr. Fleck said, "There is one very rational reason to continue to electing our municipal judge, that is currently, according to the City Charter, there exists a functional separation of powers with a separate judiciary and an elected judge beholden to the electorate and not to the Mayor and Council with which the power to dismiss would afford the Mayor and Council defacto power to control both the executive and the judicial powers wielded by Roswell." He said an elected judge would be to serve all the citizens of Roswell and is a means of protecting citizens from any "attempted abuses of this Council, this administration, the Roswell Police Department, while enforcing local and state laws." Mr. Fleck said he would "provide the perfect example of one such abused individual this city made into a folk hero that made Roswell a source of ridicule in the national media." He commented on the City's first attempt at rewriting a chicken ordinance "to try to grandfather in Mr. Wordes into the second ordinance; the elected judge basically advised Roswell's now famous chicken man to ignore your efforts." Mr. Fleck said, "You remember the elected judge that advised the City of Roswell that any continued harassment in your criminal court would obligate the City to pay to provide Andrew legal services of his choice. Mr. Davidson, you remember when your assistant Bob Hurley filed, what was it, a nuisance property civil suit, against Andrew, to keep the city from having to pay his legal fees in the civil court of law. I might suggest that by appointing a judge, there is an excellent likelihood to avoid such a reoccurrence in the future by a judge who would be serving at the pleasure of you all and not at the pleasure of the electorate. The chicken man was not allowed the opportunity to appear in bankruptcy court to defend himself while in Roswell's jail. That a legal expert attested to his wrongful foreclosure, resulting from the City's administrative harassment that eventually resulted in his violently taking his life. Please don't try to justify the fact that Roswell's folk hero was incarcerated for failing to complete his community service because at the same time Andrew Wordes was in jail, the City was allowing illegal aliens to pay a local minister to falsify community service documents to satisfy court orders. For your information, it is estimated that those illegal activities, some of which occurred within the physical confines of Roswell Police Department facilities; (inaudible) hundreds of thousands of dollars before he voluntarily deported himself because he too was in the United States illegally. I wish to advise you all that considering this motion is not going to clear your conscience, and in fact, it is an abomination by a Council that is so arrogant to believe that it knows better than all the previous Councils that came before them and those who established the foundation of this city with the existing City Charter. I am sorry to tell you but your recent decisions verify that you all aren't really that wise. And finally my opinion, Andrew Wordes is still on your hands, and you best believe that our lives here on this earth is all that there is. Thank you."

No other public comments were made.

Mayor Wood stated, "Just for the record, Andrew Wordes was a friend of mine. Andrew Wordes was incarcerated by the Roswell Municipal Court Judge, not by the City of Roswell. This City, in the event of an appointment of a judge, will be going to a term so they will not be removed at the will of this Council. I think folks that talk about separation of the courts and the legislature forget that this City Council is governed not by the Municipal Court Judge but by the Superior Court Judge of Fulton County. Our laws are not reviewed by our judge but by the Superior Court ultimately. That Superior Court will remain elected by you and remain independent. I don't buy the arguments that are made here. I do believe it is a fair judgment to go one way or the other but to accuse this Council of the things they have been accused of are to ignore the role of the Municipal Court Judge versus the Superior Court Judge, to ignore the way the system works, so I would have to disagree with them."

Mayor Wood noted that a motion and second were on the table. He called for any further Council questions or further discussion.

Council comments:

Councilmember Price asked if it is true that state law supersedes Roswell's Municipal Charter. At the request of the Mayor, City Attorney David Davidson responded to Councilmember Price's question and confirmed that is correct. Councilmember Price replied, "So, in the state law, in the motion that Councilmember Orlans just read, it is my understanding that in 36-32-2, it states that an appointed judge would serve at the pleasure of the municipal body. So, no matter what we put into our charter, this would supersede that so it would still be at the will, at our pleasure, is that not right." City Attorney David Davidson replied, "Under the state law, he would serve at the pleasure of the governing authority; that is correct." Councilmember Price replied, "So even if we said that we are going to give him a term or only remove him with cause or what have you, we still have the authority under state law to remove him when we feel like it. Does anyone dispute that?" Mayor Wood replied, "He would have a contract with the City of Roswell. We could remove him when we felt he was not doing his job, I would presume. Mr. Davidson would have to give you the final answer. We have a City Solicitor that we have a contract with right now; we cannot dismiss her at will. I would assume we would have a similar agreement with our Municipal Court Judge or Judges that we could not dismiss them at will." Councilmember Price replied that state law says it could be done. City Attorney David Davidson stated, "It says it is at the discretion, and they serve at the pleasure of the governing authority. If you decide to enact an ordinance to appoint them to a year term, then that is your pleasure; you could do that if you wanted. You could say they serve just simply at your pleasure and they do not get a term. It is going to be up to this Council to decide that. It is not something that I can answer at this time until you all decide." Councilmember Price replied, "In our current Charter, do we not have a mechanism to remove an underperforming judge?" City Attorney David Davidson said he doubted that the word "underperforming" was included in the Charter. Councilmember Price agreed that the Charter did not include the word "underperforming." She said "If there was a problem with a judge even though he is elected, this Council can remove a judge for cause." Mr. Davidson replied, "For cause. Yes ma'am." Councilmember Price replied, "So, we do have a mechanism for making sure we have a judge who is acceptable." Mr. Davidson replied, "Yes, ma'am."

Councilmember Dippolito stated, "I just want a clarification on that. So, under both an elected or appointed position, Council has the right to remove the judge." Mr. Davidson clarified, "Under elected, you could only remove for cause. Under the state law the judge serves at your pleasure."

If you decide that you want to make it a year term, where he could only be removed for cause, you could do that. That would be your pleasure; it would be by ordinance how you did that.” Councilmember Dippolito thanked Mr. Davidson. No further questions.

Mayor Wood called for further Council questions or discussion; there was no further discussion.

Mayor Wood called for the vote.

Vote on the motion to appoint judges: Councilmember Orlans and Councilmember Wynn voted in favor. Councilmembers Diamond, Dippolito, Price, and Igleheart were opposed. The motion failed 2:4.

3. Recognition of the City of Roswell receiving the Distinguished Budget Presentation Award for the FY13 budget from the Government Finance Officers Association (GFOA).

Councilmember Igleheart introduced this item. Director of Finance Keith Lee stated this particular award is a significant achievement for the City. It reflects the highest of commitment to government budgeting; it is an indication that our budget document is proficient as a policy document as a financial plan, as an operational guide, as a communications device. Mr. Lee stated, “It would not be possible to achieve this award without the leadership of Mayor and Council, without the guidance of the City Administrator Kay Love, without staff’s commitment to excellence, or without having the best budget team east of the Pacific Ocean.” Mr. Lee expressed appreciation to Ryan Luckett and Lynn Williams who were in attendance at the meeting. Mayor Wood said, “Let’s give those folks a hand for doing a great budget. Just to add to that award, that budget, and these other awards that we are receiving, that this City has held the AAA Bond Rating for almost 15 years now. It was many years that Roswell was the only city to maintain that AAA Bond Rating. After learning from us, Alpharetta achieved that a few years ago. We continue to receive that and I believe we have the best budget team and the best controls over budget of any city in the state of Georgia, as indicated by this award but even more important by that AAA Bond Rating. Good job.” Mr. Lee agreed and thanked Mayor Wood for his comments.

Council comments:

Councilmember Dippolito commented that over the last two years he had the pleasure of being the Administration and Finance liaison to Council and had gotten to know Keith Lee and his team extremely well. Councilmember Dippolito expressed his appreciation to the budget team for the fantastic job they do. He said, “This award is evidence of it, but the excellent shape that the City is in is also evidence of what you do day in and day out. Thank you all very much.” Mr. Lee thanked Councilmember Dippolito.

4. Presentation of the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting for the FY2012 Comprehensive Annual Finance Report (CAFR).

Director of Finance Keith Lee said this is the highest form of recognition in Government Accounting and Reporting. It is a significant accomplishment by the Mayor and Council, management of the City, as well as staff. This award is judged by an impartial panel and as it indicates, we have a commitment to the full disclosure of our financial picture in our plan. Mr. Lee stated it is made possible by Mayor and Council, along with City Administrator Kay Love’s guidance that allows the City to achieve this award, and staff’s commitment to excellence in

putting together the annual Comprehensive Annual Finance Report (CAFR). Mr. Lee expressed his appreciation to his accounting staff and recognized Accounting Manager Wendy Johnson, in attendance at this meeting; the remainder of her staff is Georgette McCray and Jackie Wolo. Mayor Wood expressed his appreciation to the Accounting Department.

5. Presentation of the Fiscal Year (FY) 2013 Comprehensive Annual Financial Report (CAFR).

Councilmember Igleheart stated this report is the actual reason for the previous financial awards. Director of Finance Keith Lee stated that was correct. Mr. Lee noted that he was bringing the FY 2013 Comprehensive Annual Financial Report (CAFR) to Mayor and Council this evening. He stated that the City auditors are Mauldin & Jenkins; he recognized Mr. Adam Fraley of Mauldin & Jenkins, who was in attendance. Mr. Fraley administers the City's account, works closely with Finance staff, the Accounting staff, and other City department staff.

Mr. Lee reviewing the report stated, "Just to give you some highlights shown in your CAFR, for FY13 ending, our assets exceeded liabilities by \$256 million. That is an increase of 2.17%. \$63.3 million of that is unassigned or unrestricted, meaning we have access to cash to do the services that we need to for the City. We are able to report a positive net position on the government activities as well as business activities. We talked about debt a little earlier. We have \$15.6 million in outstanding debt. Total debt per capita is \$166; as a function of our legal debt limit, 2.79%; so, we have 97.2% of our debt limit that we have not accessed. For our governmental revenues, 57% or 58% of our revenues are derived from property tax and sales tax; 31% is derived from charges for service. The cost of our governmental activities was \$64.6 million. That is a decrease of 3.19% from 2012. The largest expenditure in the budget is Public Safety at 38.09% or \$24.622 million.

Councilmember Price requested that Mr. Lee's presentation be placed on the overhead for visual reference. Mr. Lee projected the CAFR presentation with charts on the overhead screen.

Continuing, Mr. Lee stated, "The cost of governmental activities was \$64.6 million, government wide activities. We decreased from FY12 a 3.19%, meaning we had less expenditures in FY13 than we did in FY12. Our Public Safety was 38.9% of those expenditures, at \$24.622 million. The cost of our business type activities, these are our proprietary funds, water funds, solid waste funds; we expensed \$18.275 million; we collected \$19.8 million. Of that, 48.85% is related to the solid waste fund."

Referring to Fund Highlights, Mr. Lee stated, "Our General Fund. We ended the year \$4.6 million better than we expected, meaning that we added \$4.6 million to the bottom line. Our 911 Fund ended the year with \$564,000 more than we expected. Hotel/Motel Fund, our revenues exceeded expenses by \$155,000. The Water Fund ended the year with \$211,000 more than we expected. Solid Waste Fund \$104 million better than we expected; Participant Recreation Fund up \$442,000; and Storm Water \$1.87 million. Those are the highlights of our funds."

Mr. Lee stated, "We did have a couple of findings. One was our State Grant Fund was out of balance. As a result of that, you will see some changes in our budget ordinances in future years. We have capital in our State Grants that roll from year to year, they are multi-year capital projects; we aren't recognizing the revenue in our budget ordinance, so we will be making some changes there. We have a separate checking account for our State and Federal Confiscated Assets Fund. We were required to separate those funds that we get on confiscated assets from the federal

government as well as the state. In FY14, we actually passed a budget with separate cost centers for those funds but we did not have them in separate checking accounts. The separate checking accounting has been set up and we have moved those funds. The final finding was Federal funding reporting of several awards over \$25,000. This is a required reporting whenever we have a sub-recipient such as the Child Development Center to HUD. Danny Blitch has already made changes to that and has begun making those reports. We have adjusted for our findings in this year's CAFR. That is the presentation of the CAFR." Mr. Lee offered to take any questions.

Council questions:

Councilmember Price requested a hard copy of the presentation. Mr. Lee confirmed he would provide her the presentation. No further questions.

Public comments:

Lee Fleck, Martins Landing. Mr. Fleck's comments made while approaching the podium were not clearly audible.

Mayor Wood stated, "Mr. Fleck if you have a question, you will be given an opportunity to ask them. You are not here to direct employees." Mr. Fleck replied, "I stand corrected Mayor."

Mr. Fleck said he was pleased regarding "such a significant improvement in the City's annual financial over the last two years." He said many are aware of his objections to the City's method. Mr. Fleck said, "Mayor, recently you bragged about how great the City's finances are yet this Council couldn't give taxpayers back .4 mils in retired tax service." Mr. Fleck said, "Keith, I thought I heard you say you had \$4.6 million in favorable balance. There would have been no problem in retiring that .4 debt. We will cross that bridge in another year or so, won't we? Keith can you tell me when the CFR is going to be on the website? I can look at him, I am not asking you."

Mayor Wood asked Mr. Fleck to list his questions, addressing them to him, rather than to Mr. Lee.

Mr. Fleck stated, "Ms. Love, can you tell me when we will have that CFR on the website, please."

Mayor Wood asked that Mr. Fleck's question be put down, and kept track with the rest of his questions. Mayor Wood said, "I think there were two questions. Mr. Lee will answer the first one."

Mr. Lee said, "The CAFR will be on the website tomorrow. We would not put it up before we presented it to Mayor and Council." Mayor Wood thanked Mr. Lee.

Mayor Wood called for any other public comments.

Janet Russell, 260 Willow Springs Drive, stated Mr. Lee had mentioned excessive money now from solid waste collection. She strongly suggested that the City lower the rates for garbage collection.

Mayor Wood replied, "In the past, the fees were greater than the cost. At current, the fees are less than the cost, so over time, that will balance out." Ms. Russell replied, "No, he said we have excess now." Mayor Wood asked what the balance is in the Solid Waste Fund.

Mr. Lee stated, "From my presentation, I was basically giving us how we did from a budgetary basis. We performed better than on a budgetary basis by a million dollars. We had expected to use \$1.2 million of fund balance meaning we would have declined the fund balance by \$1.2 million. We actually only used \$230,000 of the fund balance on a budgetary basis." Mayor Wood said, "The costs were less than we had projected." Mr. Lee said that was correct. Mayor Wood replied, "We still spent more than we brought in." Mr. Lee replied, "That is correct sir, and that has been the plan for this fund. Once we adjusted the rates two years ago when we decreased the base rate by \$3.95." Mayor Wood thanked Mr. Lee and asked Ms. Russell if she had any other questions or comments.

Ms. Russell asked if she got another question. Mayor Wood said yes. Ms. Russell responded that "sometimes you shoot me down and have the police take me out." Mayor Wood said he didn't believe he had "shot anybody." Ms. Russell said verbally he had; she should be respected; she is the Mayor's boss. Ms. Russell said, "You already charge the people that get water from the City of Roswell more than people who get water from Fulton County per thousand gallons, so that you can make money off of us. You now tell me that you really are making money if you have too much money in the garbage collection fund, you are still making money. You adjusted our rates. You say it costs more than before, you are still making money or it would be in the red zone again. My questions are these, is this government in the business to make money off of its citizens or to have a little bit in the account. Did he say we have \$253 million in a savings account? And yet our police are some of the poorest paid in Fulton County."

Mayor Wood called for any other public comments. No further comments were made.

Mr. Lee said, "May I clarify the \$253 million. That has to do with our total assets, meaning our fiscal assets; this building our roads, our infrastructure, as well as cash, as well as restricted assets by policies, or state laws." Mayor Wood thanked Mr. Lee.

6. Approval of a Resolution to Provide Notice and Intent to Sell Bonds with a par amount not to exceed \$4,940,000.

Councilmember Igleheart introduced this item and noted that this is from the 2012 bond that was a total of \$14.7 million, which that was split up for a number of reasons. He said, "Some that make it easier to spend and also have longer time to spend them, is the short version." Mr. Lee said, "That is correct. We are asking for your approval for this notice of intent to sell \$4.9 million in general obligation bonds. Our financial advisor for Southwest has advised us this is a good time to be in the market. We would propose to sell these on April 14, 2014 or thereabouts. We do expect a true interest cost in the 2 to 2.5 percentile range, which is slightly higher than last year. The market has moved up."

Motion: Councilmember Igleheart moved for **Approval of a Resolution to Provide Notice and Intent to Sell Bonds with a par amount not to exceed \$4,940,000.** Councilmember Dippolito seconded.

Public comments:

Lee Fleck, Martins Landing, asked if the \$4.9 million was balance from the Bond Referendum. City Administrator Kay Love stated that is correct. Mr. Fleck asked when East Roswell can expect Fire Station #4 to be relocated. Mayor Wood responded, "As soon as a suitable piece of property has been acquired." Mr. Fleck replied, "This has been an ongoing public safety issue for the last five years and as we will hear momentarily, you all rezoned the entire city in eighteen months. When is the drop dead date that you will have to spend the money for the fire station?" Mayor Wood replied, "There is no drop dead date." Mr. Fleck stated, "If you do not spend it within a certain period of time, elaborate on what the ramifications are."

Mayor Wood stated, "Ms. Love, do we have to spend the money on the fire station. Can it be spent somewhere else?" Ms. Love replied, "I may have to get some help from Mr. Davidson. We would have to have a change in plans related to the need to replace the fire station. We could do it but there would be some action that the Council would have to take. The timeline kicks in related to once the bonds are issued, then we have a timeline in which to spend the funds." Mr. Fleck asked what that timeline is. Ms. Love replied, "Three years." Mr. Fleck asked, "So, you actually have one more year, approximately?" Ms. Love replied, "No sir, we won't issue the bonds until April of 2014, so that would be 2017. It is not when the referendum occurred. The bonds for the fire station are (remainder inaudible). Mr. Fleck replied, "When was the originally \$10 million issued, though." Ms. Love replied, "In 2013." Mr. Fleck stated, "Okay, was the fire station in that or is the fire station in this." Ms. Love replied, "It could have been. It is in this one. It could have been. We divided the projects up so it depends on the timeline of when projects are ready to break ground, so we have that flexibility. That was the reason for having two bond issues, to allow flexibility in timelines for construction of all the projects whether it was turf fields, transportation projects, pools, fire stations." Mr. Fleck said, "So right now, you are talking about once these bonds are issued, you have three more years before you have to spend the money on Fire Station #4 relocation, is that correct?" Ms. Love replied, "Correct."

Mayor Wood called for any other questions or comments from the public. There were none. There was no further Council discussion.

Vote: The motion passed unanimously.

Community Development - Councilmember Becky Wynn

7. Approval of an Ordinance to create the Unified Development Code and Map. (Second Reading)(This item was deferred at the February 10, 2014 Mayor and Council Meeting)

Councilmember Wynn introduced this item and then said she would turn it over to Councilmember Diamond who has been the liaison throughout this entire process.

Councilmember Diamond asked Mr. Townsend to present.

Planning and Zoning Director Brad Townsend stated that the document before Council includes numerous changes and also includes the UDC Map for approval this evening. Both documents had been placed online within 5:00 p.m. on Friday for the public to review. Council was given corrected spreadsheets that deal with the corrections that were reviewed after first reading as well as the work session. Also provided was a spreadsheet dealing with the text amendments. Emails have been sent back and forth to wrap up numerous details at the end. Mr. Townsend displayed the most recent spreadsheet on the overhead that had been provided to him by Councilmembers dealing with corrections to be made for the second reading draft and said most of them had been

discussed. He asked Council how they would like for him to present this information this evening; if they would like to go through each of the items.

Councilmember Diamond said they should go through them but first asked for clarification if the date at the top should be 2/24/14 or was this meant to be Friday's draft. Mr. Townsend replied it is the 2/21/14 draft.

Brad Townsend asked Lee Einsweiler from Code Studio to come forward to assist with the discussion. The review of the list of changes was as follows:

- UDC page 2-15 – Reference: 2.2.19 B, 7 – Comment: change the subordinate points to read a through d
[See Section 2.2.19 Residential Garage Parking]
Mr. Townsend said this is a section that was added related to residential parking, administration, to renumber using a-d in lieu of 1-4.
- UDC page 3-16 – Reference: coverage – Comment: should read “Building Coverage (Max)”
[See Section 3.2.B. Cottage Court]
Mr. Townsend said the title “Coverage” will change to “Building Coverage (Max)”.
- UDC page 3-18 – Reference: dimensions – Comment: site and lot dimensions do not match standard
[See Section 3.2.9 Townhouse]
Mr. Townsend said this deals with dimensions on townhomes. All standards for townhome dimensions will change to minimum site area of 6,000 sq. ft. and maximum building coverage to 75%. That will be standard throughout the document.
- UDC page 3-26 – Reference: two-family – Comment: should not be permitted in R-CC.
[See 3.4 Allowed Uses table]
Mr. Townsend said two-family should not be permitted in R-CC; the ‘P’ designation will be removed from Residential Cottage Court.
- UDC page 3-34 – Reference: map – Comment: map does not match zoning map
[See Section 3.5.6 Martin’s Landing map]
Mr. Townsend said this is a clarification on the map that will be updated. Two subdivisions on the eastern side were pointed out that are not part of Martin’s Landing and a section on the other side of Riverside Road will be included.
- UDC page 4-7 – Reference: carriage house – Comment: delete from RX, NX, CX
[See Section 4.3 Building Type Standards table for Carriage House]
Mr. Townsend said to be deleted in RX, NX and CX.
- UDC page 4-34
[See Section 4.5 Allowed Uses table]
Mr. Townsend said Accessory apartment-attached and Carriage house-existing lot to become conditional for PV. Carriage house-lot subdivided after effective date of this code to remain limited in PV.

- UDC page 5-10 – Reference: coverage & building separation – Comment: 6’ minimum. [See Section 5.3.6 Cottage Court]
Mr. Townsend said dimensional requirements in Cottage housing to add a maximum coverage of 60%. Remove the 0’ for building separation minimum, there has to be a minimum of 6’.
- UDC page 6-6 – Reference: dimensions – Comment: site and lot dimensions do not match standard [See Section 6.3.2 Townhouse]
Mr. Townsend said townhouse development site area will change to 6,000 sq. ft. and Building coverage maximum to be 75%.
- UDC page 10-13 – Reference: OR, OP – Comment: change “d” to “C/D” in RS-9, RS-6, RS-4, R-CC, R-TH [See Section 10.2.3 Neighborhood Compatibility Buffers]
Mr. Townsend said this is the buffer table as it is drafted into the document and it is a new page. This is a discussion about allowing both “C” and “D” type buffers 20’ with a wall and evergreens or 40’ no wall to be allowed separating RS-9, RS-6, RS-4, R-CC and R-TH from OP and OR. He pointed out sections on the overhead and asked Councilmember Dippolito if those would become CD. Councilmember Dippolito said yes that was OR and OP only for those ten sections.
- UDC page 10-14 – Reference: Type C buffer – Comment: remove the word “Village” in PV buffer and replace with “protected district” [See Section 10.2.4 Buffers]
Mr. Townsend said this is a clarification on the PV in reference to the protected district and said staff has questions about that language. He asked if they are requesting to make sure that anywhere that PV abuts a protected district, then 150’ would apply. Councilmember Dippolito said his suggestion was to clarify the wording which is a little confusing; he agrees with the intent to have 150’ buffer for a village within Parkway Village but it is really for that village against a protected district so the word is confusing and needs to be made clear. To clarify, Mr. Townsend said a village within Parkway Village is required to have the 150’ buffer. Councilmember Dippolito said when abutting a protected district.

Mayor Wood said to Councilmember Diamond that he was trying to follow this and then asked a question that was inaudible. Councilmember Diamond replied that this was going to show up as a motion shortly. Mayor Wood asked if Councilmember Dippolito’s comment was something for her consideration or is it changing this. Councilmember Diamond said, “No, I think there is a column in the first section of that that shows okay where I intended to put that as part of the motion and then these two things were questions about how we go at it.” Mayor Wood asked if this is just discussion and a motion will be made following this. Councilmember Diamond replied yes; she would make a motion when he was ready. Mayor Wood said there would be as much discussion as she wished. Councilmember Diamond said she wanted to be sure to enumerate the changes from what anyone has seen before. Mayor Wood said there were enumerations of changes and now they are discussing changes to those enumerations and said again he was trying to follow how this is being patterned. Councilmember Diamond said to clarify, most of these are not changes so much as things that did not make the last draft but are things that have already been agreed on.

Mr. Townsend continued with the review of the list of changes:

- UDC page 10-19 – Reference: 10.2.10-A-8 – Comment: end of first sentence change “height exceeds 75%” to “height does not exceed 75%”

[See Section 10.2.10 Walls and Fences]

Mr. Townsend said this deals with #8 and this afternoon they had discussed changing “opacity” to “transparency” and making it “needs to exceed 25%.” He said in other words; flip it the other way which seems to be a little clearer. Councilmember Dippolito said “opacity” is being opaque which is the opposite of “transparency” and the goal is for it to be at least 25% transparent. He said he thought by flipping the percentage and the terminology would defeat the purpose. Councilmember Diamond said the goal is to get rid of the double negative so transparency should exceed 25%. Councilmember Dippolito said that would work. To clarify, Mr. Townsend said the transparency will exceed 25%. Councilmember Diamond said they would not deal with opacity anymore. Councilmember Dippolito said “opacity” is confusing and that is what they agreed to; they just need to get the terminology correct.

- UDC page 10-19 – Reference 10.2.10-A-5 – Comment: Add, Chain link is allowed as a fence material around a tennis court, community swimming pool, and/or sports field in the Residential, Civic and Recreational districts

[See Section 10.2.10 Walls and Fences]

Councilmember Dippolito asked how this is controlled from a design standpoint. He said he understands the need to have a chain link fence around the tennis court which is obvious but they would not want to allow chain link fence everywhere. Part of the goal of this originally was to rein that in. He asked how that would be structured in a way to provide that flexibility.

Mr. Einsweiler said that is a challenge but one option would be to put that fence type through design review whenever it shows up so it could be gauged if it is an appropriate rear yard location which might be fine as opposed to a very prominent front or side yard location. That would require it have an additional review and chain link fence in those settings could be put into additional review to ensure they are not agreeing to circumstances that were trying to be banned in the first place. Councilmember Dippolito asked if that was set as a minor review could it be approved by the Planning Director in the appropriate case and be a fairly quick process. Mr. Einsweiler replied yes. Mr. Townsend said it is set as a minor review but it is within his purview to kick it up if it is believed there is an issue with it not being in the rear or something of that nature. Councilmember Dippolito thanked Mr. Townsend.

- UDC page 10-24 – Reference 10.3.7-E-2 – Comment: change “A non-exposed” to “An exposed”

[See Section 10.3.7 Signs Not Requiring a Permit]

Mr. Townsend said this deals with “open” neon signs.

- UDC page 10-40 – Reference 10.3.24-C-4 – Comment: remove first sentence. Second sentence should read “Neon signs stating “Open” are allowed...”

[See Section 10.3.7 Sign Illumination]

Mr. Townsend said the same for this item, to add the second sentence to read “Neon signs stating “Open” to that section.

- UDC page 11-3 – Reference 11.2.6-B-2-e – Comment: should read “Easements for underground utility lines.”
[See Section 11.2.6 Common Open Space]

- UDC page 11-13 – Reference: sketch – Comment: Replace illustration with rendering accurate to 17’ street
[See Section 11.4.10 Local Street]

Mr. Townsend said this clarifies the illustration because it is not possible to have two cars parked and two cars driving in a 17’ wide area and that one would probably be eliminated on one side.

Councilmember Price said they went through this in previous Groveway issues when a barber pole came up and asked if this document prohibits or allows barber poles.

Mr. Einsweiler said in most communities, a barber pole would be considered a sign so unless it is expressly allowed, it would be part of the sign package for the establishment and he does not believe it stands alone as a sign type.

Councilmember Price said “if it is not mentioned, it is disallowed?”

Mr. Einsweiler said no, it is not mentioned so it would be part of the standard sign package, for example the elements of a barber pole could be put in one of the sign types that are currently allowed. It couldn’t be a wall sign which he thought must be connected but it could certainly be a projecting sign and a projecting sign is a type that is widely allowed. The projecting sign shows up in almost every commercial district so in most part where a barber would be allowed, a projecting sign would be allowed and therefore the pole could be used as is shown on page 10-30 extending out from the building which is the classic model for a barber pole. Councilmember Price thanked Mr. Einsweiler.

- UDC page 12-49 – Reference: 12.9.1 – Comment: delete last sentence; unnecessary and confusing
[See Section 12.9 Refuse Regulations]

Mr. Townsend said the entire last sentence will be deleted.

Mr. Einsweiler said the last sentence in 12.9.1 was carried over from existing language and is not very helpful because it cross-referenced two pieces that did not make sense either in the existing language of the adopted code nor here so they propose deleting that sentence.

Councilmember Price asked if that is the sentence starting with “screening?” Mr. Einsweiler replied correct. Councilmember Igleheart asked if screening is provided for dumpsters elsewhere. Mr. Einsweiler replied yes, screening is required earlier in that same sentence.

- UDC page 13-25 – Reference: 13.8.12 – Comment: First sentence; remove “installed”, add “that have not been installed” at the end of the sentence
[See Section 13.8.12 Can I Bond for the Work Instead?]

Mr. Townsend said this relates to improvements for a Final Plat. Taking a bond is for when improvements have not been installed and a bond is taken for improvements to be completed subsequent to the Final Plat. This clarifies that language.

- UDC pages 13-31 – Reference 13.11.10 – Comment: Rework last sentence; perhaps upon legal removal of the variance instead of when the land is redeveloped.
[See Section 13.11.10 How Long is a Variance Valid?]
Mr. Townsend said this is to rework the last sentence.

Councilmember Dippolito asked if they had language for this.

Mr. Einsweiler replied the first portion of this sentence is typical language and variances typically run in perpetuity. He can understand why it might be said if the building is gone then the variance can be reconsidered but they typically run with the land and if the last portion of the phrase was struck it would be in keeping with most people's obligations. The variance would then be removed by the next action on the property if there was one. Councilmember Dippolito said that makes more sense than having it limited conditioned that the variance goes away and he asked if Mr. Davidson for his opinion on this. Mr. Davidson agreed. Councilmember Dippolito said they would delete after the word "perpetuity." Mr. Einsweiler replied yes.

Councilmember Price said, "This says rework last sentence; there is only one sentence." Mr. Townsend said a period would be put after "perpetuity" and they would eliminate the rest of the language. Councilmember Price asked him to read the new language. Mr. Townsend read, "A variance runs with the land and remains valid in perpetuity." Councilmember Price thanked Mr. Townsend and said it would be very helpful if he could reiterate whatever the final is.

- UDC page 13-36 – Reference 13.14.4-A – Comment: Remove highlighted question.
[See Section 13.14.4 Remedies and Penalties]
Mr. Townsend said the highlights would be removed from this section.

Mr. Townsend said the next item on the review list referred to spreadsheets and indicates there were missing items and he asked Councilmember Dippolito to address that.

Councilmember Dippolito said in the prior reading they adopted the zoning spreadsheet. In that draft, the items were numbered 2187-2224. Those particular items did not make it onto the last spreadsheet which is the map changes. Each one of those had a map change from the original UDC designation. He asked that those be reinserted as drafted and adopted in the first reading.

Mr. Townsend said the other map change from the list refers to Westside Parkway that was discussed on first reading and is included in the spreadsheet. Councilmember Diamond asked if that is Mansell Overlook. Mr. Townsend replied yes, #2008 on the adoption section and he said at first reading they discussed making that a CX and the recommendation is to change it to CC. Either would be fine since it is limited to an approved site plan to control what will happen on the property and CC is next to it in the current map proposed. Councilmember Dippolito said at first reading, there was discussion with a gentleman representing the property owner and the discussion was to make it consistent with the Commercial adjacent to it. Mr. Townsend said that was correct. Councilmember Dippolito said at that time they thought it was CX but it was in fact CC and the intent was to make it consistent which is the recommendation to make it CC. Mr. Townsend said that is correct.

Mr. Townsend said that completed the review of all the changes that had been discussed.

Councilmember Diamond said she had one other item and she pointed out that they said the effective date would be 6/1/14 or approval of the resolution to adopt the guidelines, “whichever occurs last” but this says “whichever occurs first.” Mr. Townsend said he thought the recommendation was for it to be “whichever occurred first.” Councilmember Diamond said she thought the goal was if for any reason they were derailed on the guidelines, then they would be on track to have them all go together.

Councilmember Diamond asked Mr. Einsweiler to talk about the three new pages they had received from him tonight.

Mr. Einsweiler said there are three new pages per directions he received. He referred to the new page 3-49 and said it includes the Panned Residential Development (PRD) map and table after it was received from staff. The new page 2-6 resurrected some language that had previously been in that allows for upper level common area facilities such as a common balcony rooftop deck or garden to count as outdoor amenity space. While the initial pass presumed everything was supposed to be at grade, he was later informed that as long as they were common area, those three ideas (balcony, rooftop deck or rooftop garden) could be added back in and considered outdoor amenity space.

Councilmember Igleheart said he thought it was clear that they were keeping it all on ground level.

Councilmember Dippolito said he was confused because 2.2.7-2 reads, “all outdoor amenity space must be located at grade.” Mr. Einsweiler said they would change whichever piece they decided.

Councilmember Igleheart said he thought they said at grade numerous times.

Councilmember Diamond said she thought they had everything at grade.

Mr. Einsweiler said they should consider removing paragraph “2” from the “B” section of page 2-6.

Councilmember Dippolito said this would actually be an addition to...[the remainder of the comment was inaudible].

Mr. Einsweiler said they could just not add page 2-6.

Councilmember Dippolito said just not add that page.

Mr. Einsweiler said the other new page 3-6 was because of a drafting error on their part in which changes were made to the available areas where Residential Cottage Court could be used. The new language was added to allow them to be defined by the Comprehensive Plan and only in exceptional situations. However, he inadvertently left in Suburban Residential on the actual page so the revised version of page 3-6 simply reflects deleting the word Suburban Residential out of that intent statement.

Councilmember Diamond asked if Councilmember Igleheart would like to discuss his items.

Mayor Wood said we are in the discussion phase right now and asked for further discussion or questions from Council.

Councilmember Igleheart said he had a mix of things because a number of his items were just discussed and he also had some that were minor corrections and some other items that had never been resolved in any of the work sessions, but that he had caught a few of them in the little time they had to read through it again. He asked how many of those the Councilmembers would want to go through at this point. There was an inaudible reply.

Councilmember Igleheart said as the Groveway overlay currently stands, there is a requirement that would now go away for nine high visibility corners that requires certain things for plantings and other things to spruce it up to create a nice corner. He said there was also a public arts requirement and they had 1% of the building valuation that then had to go into a public art project on that property. He said both of those requirements would now be going away from Groveway and he is suggesting putting them back into Appendix A because that is where all of the previous conditions are going.

Mayor Wood asked if Councilmember Diamond was prepared to make a motion. There was no audible comment. Councilmember Orlans was recognized for a question.

Councilmember Orlans asked about the high visibility street corners they just discussed and said he agrees the requirements need to be brought forward but he thought that would be in the design guidelines. Councilmember Diamond responded that they could but in so much as it gives parameters for the measurements of the building, it would not hurt to put them in Appendix A.

Mayor Wood asked Councilmember Diamond if she was prepared to make a motion and noted he would leave the meeting open for amendments and discussion of the motion.

Motion: Councilmember Diamond made a motion, seconded by Councilmember Dippolito for **Approval of an Ordinance to create the Unified Development Code (UDC) and Official Zoning Map for the City of Roswell on Second Reading to adopt the UDC (2/21/14 second reading draft) effective June 1, 2014 or the approval of a resolution adopting the Design Guidelines whichever occurs last to include the following amendments:**

- The spreadsheet dated UDC amendments to the 2/21/14 second reading draft.
- Height map – UDC #5
- Replacement page - 3-6
- Additional PRD – Nesbit Lakes – pg. 3-49, section 3.5.17
- Appendix A additions – Kent’s email dated 2/24/14

Mr. Davidson conducted the second reading of *AN ORDINANCE OF THE CITY OF ROSWELL GEORGIA TO CREATE A UNIFIED DEVELOPMENT CODE (UDC) AND MAP*, stating this is an ordinance to repeal the existing Zoning Ordinance and Official Zoning Map of the City of Roswell, Georgia, initially adopted April 14, 2003, as amended from time to time, and to repeal and replace said ordinance with a new Unified Development Code (UDC) and map for the purposes of regulating the location, height, bulk, number, size and appearance of buildings and structures, the size of yards, and other open spaces, the distribution of population, the uses of buildings and structures and land for trade, industry, commerce, residence, recreation, public activities or other purposes; preserving buildings, structures, or areas having national,

regional, state or local historic significance; creating zoning and overlay districts for said purposes and establishing the boundaries thereof; providing for environmental protection through the regulation of trees, rivers, streams, floodplains, and watersheds; providing the imposition of development impact fees; defining certain terms used herein; providing for the method of administration and amendment; defining the powers and duties of the Planning Commission, Board of Zoning Appeals, Design Review Board and Historic Preservation Commission; defining the administrator of the review authority over certain articles; providing for the effective date of such Code and a penalty for the violation thereof; providing for the manner of amending such Code; and for other purposes.

This ordinance shall be known and may be cited as “The Unified Development Code and Map of the City of Roswell, Georgia.”

WHEREAS, the Constitution of the State of Georgia provides in Article IX, Section II, Paragraph IV thereof, that the governing authority of the City may adopt plans and exercise the power of zoning; and

WHEREAS, the municipal corporation of the City of Roswell, Georgia, is specifically authorized by its City Charter at Section 2.20 (24) Planning and Zoning, to provide comprehensive city planning for development by zoning to provide subdivision regulation and the like as the city council deems necessary in the interest of public health, safety, order, convenience, comfort, aesthetics, prosperity, or general welfare, and for the purpose of regulating the location of trades, industries, residential dwellings, or other uses of property; or for the purpose of regulating the alignment of buildings or other structures, near street frontages; or for the purpose of preserving buildings, structures, or areas having national, regional, state or local historic significance; or for the purpose of maintaining or improving the aesthetic appearance of any buildings, structures, or area. The Unified Development Code (UDC) and map regulations may be based upon any one or more of the purposes above described. The city may be divided into such number of zones or districts, and such districts, may be of such shape and area as the Mayor and Councilmembers of said city deem best to accomplish the purposes of the Unified Development Code (UDC) regulations and map; and

WHEREAS, the municipal corporation of the City of Roswell, Georgia, is further authorized by State law to exercise a wide range of powers, including but not limited to preventing the pollution of natural streams, regulating the erection and construction of buildings and other structures, developing zoning regulations, providing for public improvements, regulating and controlling signs, billboards, trees, shrubs, fences, buildings and all other structures or obstructions adjacent to the right-of-way of streets and roads or within view thereof, regulating various special uses; and to exercise all other powers necessary or desirable to promote or protect the health, safety, peace, security, good order, comfort, convenience and general welfare of the city and its inhabitants; and

WHEREAS, The Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use; and

WHEREAS, The City finds that the regulations contained in this Unified Development Code (UDC) and map are necessary for the purposes of implementing its 2030 Comprehensive Plan adopted pursuant to the requirements of the Georgia Planning Act of 1989; and

WHEREAS, this Unified Development Code (UDC) and map have been prepared and considered in accordance with the zoning procedures law, O.C.G.A. 36-66; and

WHEREAS, this Unified Development Code (UDC) and map is necessary for the purposes of promoting the health, safety, morals, convenience, order, prosperity, and the general welfare of the City; creating new street types; securing safety from fire, panic, and other dangers; providing

adequate light and air; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; improving the aesthetic appearance of the City; conserving the value of buildings and encouraging the most appropriate use of land and buildings throughout the City;

NOW, THEREFORE, the Mayor and Council of the City of Roswell, Georgia, pursuant to their authority, do hereby ordain and enact this Unified Development Code (UDC) and map, its articles, chapters, sections, and Appendix "A" attached hereto and incorporated by reference.

1.

Further, it shall be unlawful for any person to change or amend, by addition or deletions, any part of portion of such Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which cause the law of the City of Roswell to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1.1.3 of the City of Roswell Code of Ordinances.

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

Mayor Wood said before opening the meeting for public hearing he would allow Council further questions and discussion and would hear any amendments that Councilmembers wish to propose to the motion so public comment could be heard on both the motion and amendments that are proposed.

Councilmember Igleheart said he had quite a few amendments. Mayor Wood said they could be voted on as a block or each individual amendment as they go along and noted he would like to have all the amendments on the floor before hearing from the public. He asked Councilmember Igleheart to make all of his proposed amendments.

Councilmember Igleheart said he did not have a chance to put them into a spreadsheet to separate the minor ones that he thought no one would have a problem with from those that need to be discussed. He began discussion of his proposed changes as follows:

- Page 2-6 – Section 2.2.7, 2 – Proposed Change: Outdoor amenity space must be located at grade, except in DX, where up to 50% may be located above grade.

Councilmember Igleheart said this is the picture they just looked at showing the 10'x10' area on top of the building for outdoor amenity space and pointed out that if all outdoor amenity space must be located at grade, they do not need to have a picture on top of the building. Mr. Townsend asked what he wanted to change. Councilmember Igleheart said remove the drawing of the 10'x10' area on top of the roof. Mayor Wood said bring the drawing consistent with the text. Mayor Wood addressed a question to the City Attorney and asked when there is a difference between the text and the illustration, which would control. Mr. Davidson said the text would control, however it would be confusing and recommended making the change to the illustration.

- Page 2-14

Councilmember Igleheart referred to paragraph F, number 1 for Awning/Canopy and read "An awning/canopy must be a minimum of 10 feet clear height above the sidewalk and must have a minimum depth of 6 feet" and said they had changed another item to 4 feet. Mr. Townsend said that was changed back to 6 feet.

- Page 2-15 – 2.2.19-Residential Garage Parking

Councilmember Igleheart said he thought they were not going to have the 12 feet maximum on garage doors and noted that paragraph B, number 1 reads, “No individual garage door may exceed 12 feet in width.” Mr. Townsend said he was waiting on a consensus from Council. Mayor Wood said there should be a definitive answer before taking a vote. Councilmember Diamond said this was brought up in work session but those who had a stronger opinion were not present at that moment so they should have that discussion now. Mayor Wood called for a motion and a second or an amendment. Councilmember Diamond said this could be addressed in design guidelines. Mayor Wood asked they would need to revise the text here to address it in the design guidelines. Councilmember Diamond said it is a personal preference and asked if they would want drive up garages to allow double wide doors. Mayor Wood said the question is if the ordinance as currently drafted allows a double wide door. Councilmember Diamond replied it does not. Mayor Wood stated it does not allow a double wide door. Councilmember Diamond said not for the front facing ones. Mayor Wood asked Councilmember Igleheart if he would like it to be a double wide door. Councilmember Igleheart said they should clarify this and that he was not concerned about a new building but with an existing building and noted that most homes in Roswell have a semi-flush garage. He asked if that garage should burn, would the owner be allowed to build back a double wide door and he thought the answer was no.

Mr. Einsweiler said typically in a non-conforming situation especially in residential areas, they allow a lot of flexibility on those issues. Normally, they would be allowed to build back to the setbacks and other things that were allowed before. He did not know what the previous experience with a burnt down building was in Roswell but typically there is a lot of grace offered in a residential setting.

Councilmember Igleheart said other things such as tree damage could happen and that is relatively reasonable to expect. He said again he was not concerned about new buildings and he noted that quite a lot of houses in Roswell currently have that situation.

Mayor Wood said he would first like to get an answer to the question and he asked staff for their interpretation of the current Ordinance. He asked if the City currently allows them to build it back to what it was as wider than one door or are they limited to a narrower door.

Mr. Einsweiler said clearly, a case by case determination would have to be made. Mayor Wood asked if a determination is made by staff. Mr. Einsweiler said yes but there is no language on point currently in the draft. Mayor Wood asked for staff’s interpretation.

Councilmember Dippolito said this was a bigger issue than just garages and said Councilmember Igleheart’s point is well taken. He asked if they could build back what they had before in the event a house is damaged in a casualty or something changes as a result of any number of things, not just the garage. He said he thinks the answer should be yes but he did not know how to get there from a legal standpoint.

Mayor Wood said by putting the proper text into the ordinance.

Mr. Einsweiler said yes in many cases there are non-conforming provisions especially for residential districts. In commercial districts, typically they don’t feel quite the same but in

residential districts, often there is language simply allowing them to rebuild on the same footprint and in the same style, etc.

Mayor Wood asked if they added language for a non-conforming use in a residential, would it apply only for "single-family" residential. Mr. Einsweiler said it would typically apply to all residential districts. Mayor Wood said in a multi-family or single-family residential they could rebuild to the pre-existing footprint. He asked if that is the language that Councilmember Igleheart is suggesting. Councilmember Igleheart said yes and noted that the Raleigh code had a casualty clause that essentially says that and he recommended using that language. Mayor Wood said that is not currently in the ordinance. Mr. Einsweiler said that is correct. Mayor Wood asked if Councilmember Diamond and Councilmember Dippolito would like to see that in the ordinance. Councilmember Dippolito replied yes and asked staff to come up with language and said they would come back to this after that language was specified.

Mayor Wood asked Councilmember Igleheart to continue with his proposed changes.

Councilmember Price asked if they could finish the discussion on the garage door first. She said Mayor Wood was not at a work session they had and this has gone back and forth several times. She said she did not think Mayor Wood was there and she did not think Councilmember Dippolito was there but they discussed it and came to the conclusion that we were going to have recess and semi-flush, were going to be restricted to having the pole in between the garage doors, which the net effect of that is that you are going to actually have a wider garage opening relative to the house. She said she thought the whole idea was not to have that because if there is one 12 foot door, that is a lot smaller than two 10 foot doors with two feet or whatever is in between which ends up having a lot more visibility of garage. She said she thought that was what they were trying to minimize the effect of in the first place but in any case, staff said they were just as happy not to have that sentence in there at all in either #1 or # 2; she said she certainly agrees with that. She said there were also some comments from people in the room who described a standard door that is being built now. Also, there are many types of beautifications of garage doors these days so that they are not just an ugly blank wall but are now somewhat attractive looking like barn doors, etc. She said she thought the conclusion at the last meeting that was going to be in this final draft was that under paragraph B, numbers 1 and 2, the sentence, "no individual garage door may exceed 12 feet in width" was not going to appear on either one of those.

Mayor Wood said Councilmember Price proposes that be stricken. He said his understanding under the current ordinance is that someone could not build the wider door and Councilmember Price is suggesting that they allow the wider door. He asked for the position of the Councilmembers who made the motion and the second.

Councilmember Diamond said they had talked about that being something they could address in the design guidelines and said she did not have an issue with that. She said she did not think they had established what that could be but she did not think they want to start out building the bonus size garage doors.

Mayor Wood said a pre-existing structure could be redone but as far as a new structure, Councilmember Diamond is suggesting that the garage doors stay as they are. Councilmember

Diamond said or to add a clause that accommodates that some way. Mayor Wood said or to be consistent with design guidelines if different.

Councilmember Dippolito said this is a big issue for him because garage doors are such a prominent feature on a house but when the house is setback, it becomes less of an issue. As Councilmember Price pointed out, there could be a 16 foot wide door that can be nicely designed and looks like carriage doors and would be very well done. What is being changed within this ordinance is providing for some small lots with some very short setbacks from the street where the houses are going to be very close and that difference in how the house looks will be very apparent. The rationale the consultants put into drafting the code makes sense if the garage is semi-flush meaning it is only about 5 feet back from the face of the house; it is going to be close to the street and clear to see. If there are two doors, in that case, it breaks up the massing of the house. Everyone has seen what is called "snout houses" where all you see is garage when you pull up and that is what we are trying to avoid and by having double doors for garage doors that are fairly close to the street, makes senses. He prefers having two doors in #2 that is recessed 20 feet back from the face of the house which is pretty far. He said they are already compromising by allowing the double wide in that situation. He is hopeful through the design guidelines; they can take care of that and get a product that looks good.

Mayor Wood said Councilmember Price is suggesting an amendment but he is hearing from Councilmember Dippolito that he does not support an amendment. He asked Councilmember Diamond if she supports an amendment.

Councilmember Diamond said not in that instance and she thought it can be solved.

Mayor Wood asked Councilmember Price if she wanted to make a motion to amend.

Councilmember Price said she would like to clarify what Councilmember Dippolito said. She said the idea is not to have a lot of visible garage at the front but by actually forcing two doors, there will be more garage because it would be 10 feet plus 10 feet plus 3 feet totaling 23 feet; whereas a 12 foot door would only be 12 feet. Maybe the goal is, if there is a small lot where there is only one single car garage perhaps that is the goal or the goal is not to have any small lots at all. But just talking about the width of a garage door and the visibility relative to the structure, having that separation in the middle is actually going to give more garage door to have to look at. This is defeating the purpose by having it in there. This could be addressed with design guidelines; therefore the motion is simply to strike the final sentence on 2.2.19-B-1.

2nd Motion: Councilmember Price made a motion to strike the final sentence in Section 2.2.19-B-1. There was no second. **The motion failed for lack of a second.**

Councilmember Price said her apologies to anyone who is building a house and is now forced to have a single car garage.

Councilmember Igleheart said the reason he did not second is because his concern is the casualty side of it. If they are dealing with that, then he is good.

Councilmember Igleheart continued discussion of his proposed changes.

- Page 2-16 – Section 2.2.19-C-2 – Proposed Change: Add: text for 20’ minimum driveway to match drawing.

Councilmember Igleheart apologized for this being so minor but said if this is what is going to be in the final text when it passes and this is the only chance to fix all of this, then they would have to address a lot of the little stuff. He said at the February 3, 2014 work session, they said they would put in the text this 20 foot minimum between the sidewalk and the building but he does not see that anywhere and it is in the text that counts, not the picture. He said the picture shows 20’ minimum but it is not in the text.

Councilmember Dippolito agreed. Councilmember Igleheart said he has it in the motion that they did it in the February 3, 2014 work session.

Mayor Wood said Councilmember Dippolito agrees and asked Councilmember Diamond if she agreed. Her comment was inaudible. Mayor Wood asked specifically what comment needs to be added.

Mr. Einsweiler said they would add the 20’ minimum spacing required between the street and the garage door.

- Page 3-6 – Section 3.1.9-R-CC: Residential Cottage Court

Councilmember Igleheart said the language “and two-family living in an attached house” has been left in the intent statement here and needs be removed. He said he thought it had been removed everywhere else. Mayor Wood asked Councilmembers Diamond and Dippolito if that change was acceptable. Councilmember Dippolito replied yes. There was no audible reply from Councilmember Diamond.

Councilmember Igleheart said he would go through the text type changes and perhaps come back to the others and began his discussion as follows:

- Page 3-29 – Use Chart – Accessory Uses: Accessory apartment, attached

Councilmember Igleheart referred to the Accessory Uses section. He said the first use is Accessory Apartment, Attached and that use is Conditional in AG-43 but the use is Limited in RS-87, RS-30, RS-18 and RS-12. He said his notes from the February 8, 2014 work session show that they changed all of those to Conditional in lieu of Limited.

Mayor Wood asked if that change was acceptable.

Councilmember Diamond replied they talked about that but this would mean anyone who finished their basement would have to come to Council for approval. She said Limited would get to where there would be oversight and then if there was more to talk about, it could go forward. She said she could not imagine they would want to see everyone’s basement at Council level.

Councilmember Igleheart said he agrees with that instance but his concern is if a part is added that brings in a second unrelated person that they would be renting to, is when it becomes a problem.

Councilmember Diamond said the City has no mechanism for determining who is renting versus who is a family member or if it is a family member who is renting or a non-family

member who is just staying there. She said that gets into enforcement and she did not know how they would handle that and she could not imagine that they would want to tell every homeowner that wants to finish their basement that they would have to come through the Council process.

Councilmember Igleheart said he did not check this one because he was just going on the notes he had from February 8, 2014.

Mayor Wood said as he understands, Councilmember Diamond is not accepting that change. He asked Councilmember Dippolito for his position.

Councilmember Dippolito said he had a question for staff and asked what the current zoning reads.

Councilmember Diamond said she believes it is Conditional and assumes they have incentivized people to finish their basement without getting a permit.

Mr. Townsend said it is Conditional in E-1, E-2 and R-1, R-5...[other zones he mentioned were inaudible]; it is Not Permitted in R-2, R-TH, R-THA, R-3, R-3A, R-4 and R-4A.

Councilmember Price said to clarify, is an Accessory Apartment within the existing structure or additional.

Mr. Townsend said Section 9.7.1 gives the definitions and parameters for both categories.

Mayor Wood said there are a motion and a second. Councilmember Igleheart is suggesting this change from Limited use to Conditional use. He said he had not heard a concession on this by Councilmember Dippolito or Councilmember Diamond.

Councilmember Dippolito said he had another question for staff and asked Jackie Deibel if she has ever seen an Accessory Apartment come through for Conditional use. Ms. Deibel replied yes, one for Brookfield West where a woman needed a nurse 24/7 that was a portion of the finished basement and Council also approved an Accessory Apartment on Woodstock Road that was not in the house but attached and that was built. She said there were two in about ten years. Councilmember Dippolito said he would support this change to Conditional and did not think there would be a significant number of people asking for this.

Councilmember Orlans said for clarification on the Accessory Apartment Attached, if there was going to be a change to the footprint like they did on Woodstock, there would be some type of approval anyway and asked if that was a true statement. There was no audible reply. He said that is what brought Woodstock up; so in this situation it is Apartment Attached and without changing the footprint, it is going to be internal as in a basement or a room. He said Councilmember Diamond was right and he did not know how they could require someone to come through a rezoning process just for that.

Mayor Wood said that would take a vote. He said he has the original motion and a motion to amend that to make it Conditional. He said there is support on that and it will be heard as part of the public hearing.

- Page 3-29 – Use Chart – Accessory Uses: Carriage house (lot subdivided after effective date of the code)

Councilmember Igleheart said his notes indicate they changed those from Limited to Conditional at the February 8, 2014 work session. He said the use table for Carriage house (existing lot) is already showing it as Conditional and he thinks that is what the current zoning is. He said they should be the same in the future as they are today and thought they had changed that. Councilmember Diamond said she agreed with this change. Councilmember Dippolito agreed as well. Mayor Wood said this change would be made.

- Page 4-23 – 4.3.10-Mixed Use Building, #3 Scale

Councilmember Igleheart said Building height (max) reads, “Set by district see Sec. 4.2” but there is nothing specific in Sec. 4.2. He referred to the one that has the list of all the options of height and said it kind of goes circular there and there is no answer.

Mr. Einsweiler said the answer is actually on the Official Zoning Map. Councilmember Igleheart said perhaps they should put that instead. He said Mr. Einsweiler is right; it is in the map but he did not think it says that in Sec. 4.2.

- Page 4-34 – Accessory Uses: Accessory apartment-attached, Carriage house (existing lot), Carriage house (lot subdivided after effective date of this code)

Councilmember Igleheart said his notes from the February 3, 2014 work session show that all three of these categories changed from Limited to Conditional in Parkway Village (PV).

Councilmember Diamond said that was on the sheet they went over earlier and her notes showed the first two categories as Conditional but going forward they would be Limited. If they changed the other to Conditional, it would make sense to make them consistent. She said that would be an adjustment to #14 on the spreadsheet.

Mayor Wood asked Councilmember Diamond if she accepts these changes. Councilmember Diamond replied yes. There were inaudible comments, then Mayor Wood said “just on the carriage house, alright and you are accepting those changes on the carriage house.” The reply was inaudible. Mayor Wood said alright.

- Page 4-34 – Accessory Uses: Donation bin

Councilmember Igleheart said his notes from the work session on February 8, 2014 show that Limited was changed to Conditional under the NX zoning.

Councilmember Diamond asked again “is that what we want coming through Council each time.” Councilmember Igleheart said he was going on what he thought they decided previously and they are not the same today as they were the last time they were discussed. Councilmember Diamond said she did not have this one in her notes and did not remember that they said they wanted to check on each donation bin.

Mayor Wood said Councilmember Diamond is not accepting that change and asked Councilmember Dippolito for his position. Councilmember Dippolito said he agrees with Councilmember Diamond. Mayor Wood asked if Councilmember Igleheart would like to make a motion to change that. Councilmember Igleheart said he did not care; he was just discussing the ones he thought had been changed previously. Mayor Wood said that will not be changed.

- Page 5-32 – Accessory Uses: Accessory apartment-attached, Carriage house (existing lot), Carriage house (lot subdivided after effective date of this code)

Councilmember Igleheart said the same thing again; he had Conditional marked from the previous work session and this is in the Downtown Residential (DR).

Councilmember Diamond said she thought DX in the Historic District is allowed now and asked if that is why they have that as Permitted Use. Councilmember Igleheart said DX is showing Permitted Use but DR is showing on this chart as Limited. Councilmember Diamond said everything in the Downtown District has that capability on some level now in the Historic District and DR would be in the Historic District. Councilmember Igleheart asked if that is Conditional now. Mr. Townsend replied it is Permitted now, not Conditional. Councilmember Igleheart thanked Mr. Townsend and said he had not double checked these; they are just notes he had from previous work sessions.

- Page 9-7 – Section 9.4-Public/Institutional Uses, E.-Nonprofit Service Organization

Councilmember Igleheart said “and again, on #9; I don’t remember which one it was from” and he asked “we were going to re-write that?”

Councilmember Diamond said they were going to add “education” there. She said Legal explained that some of that language was created at the Federal level and therefore they added “education” to that because it seemed a little restrictive to what the Nonprofits can do.

Mr. Townsend said they added “education” on page 9-6.

Councilmember Igleheart said his notes show that on 9.4.1-E which is Nonprofit Service Organization. Councilmember Diamond said she thought they decided it made more sense to put it under Social Service and Educational so it is actually addressed on 9.3.3. Councilmember Igleheart thanked Councilmember Diamond and said he was just pointing out things that did not match.

Councilmember Igleheart stated that completed his discussion on the easy fix items from his list.

Mayor Wood announced a break at 9:05 p.m. The meeting reconvened at 9:15 p.m.

Mayor Wood stated that a consultant was present at the meeting on the issue regarding the water plant and said he would hear that item first and they would return to the UDC agenda item afterwards.

*****Regular Agenda Item #9 was heard out of order at this point.*****

*****Discussion of Regular Agenda Item #7 – UDC continued at 9:43 p.m.*****

Council Comment:

Councilmember Diamond said there is wording for the casualty code clause that they talked about to go with the item on page 2-15.

Mr. Townsend displayed the clause on the overhead and said it is proposed to go on page 13-33. It would be new Section 13.13.1-C dealing with damage and destruction. He read the clause as

follows: In the event of a non-conforming structure that is devoted to a conforming use is damaged or partly destroyed by excise of imminent domain, riot, fire, accident, an explosion, flood, lightening, wind or other calamity or natural cause to the extent of more than 50% of the replacement cost of the structure immediately prior to such damage, such structure shall be restored only in conformance with the regulations of the district unless a variance is issued by the Board of Zoning Appeals.

Councilmember Dippolito asked if it could it be corrected without a variance if it is less than 50%. Mr. Townsend replied yes.

Mayor Wood asked to return to Councilmember Igleheart's list of proposed changes.

Councilmember Igleheart said he would begin with the clause that was just read and said if a tree or fire destroys a house, it is obviously going to be more than 50% and it does not solve that issue. It makes sense to only apply it to residential because in commercial and other things, there are a number of places they would like to have go away, but the whole point for a house is if it is rebuilt we would hope something better would be built; he said he had a problem saying "you can't rebuild your house pretty much the way it was."

Mayor Wood asked if he is proposing an amendment to say that if there is damage to the house, then the owner would be allowed to rebuild it by right.

Councilmember Diamond said perhaps there should be a residential piece to this clause that would be separate.

Mayor Wood told Councilmember Igleheart he might have some support on this.

Councilmember Orlans said he is trying to understand the point of this. This is trying to cover 50% or more and at 50% or less, we have people replacing things that are damaged to their house all the time and they don't have to come through this process for anything and it can be repaired the way it is built currently. He said he does not see where there is an issue. He understands this is trying to make sure they don't have an issue but he does not see where there is one. Right now, a place can be non-conforming but if a tree falls against part of the house, they repair it and they do not have to come through any kind of zoning process to replace it back the way it was.

Councilmember Igleheart said this says you do, if it is more than 50%.

Mayor Wood said if a tornado takes out more than 50% of the house, then they would have to come for a variance; they would not have the right to rebuild on the footprint.

Councilmember Orlans said this is replacing something that is going by what has already been approved on.

Councilmember Diamond asked for the rationale behind the 50%.

Mr. Einsweiler said it is typical for this 50% rule to be found in the building code in other places. An exception could certainly be made in the residential areas and allow 100% replacement at the staff level; there is no problem to do that. This simply suggests that this does apply everywhere in town to all uses as proposed at this moment. If Council wants a residential clause that allows

for 100% replacement in all cases at staff level, they could draft that clause that would be similar to this one.

Councilmember Wynn said to Mr. Einsweiler, "I think clarification; can we make it or is this going to be too restrictive to the existing footprint?" Mr. Einsweiler said sure. Councilmember Wynn said because "I don't want a house that is like a 4,000 sq. ft. house and all of a sudden they want to go to..."[remainder of comment inaudible]. Mr. Einsweiler said no, it would be intended to replace it to its original condition which would allow the two-bay garage door to be replaced.

Mayor Wood asked if Council wants to make this change.

Councilmember Diamond asked that they work on some wording for this.

Mayor Wood said he is hearing is that Council would want a residential to be built on the same footprint. Mr. Einsweiler asked if it would be appropriate to add this kind of clause for the commercial activity. Mayor Wood said he is not hearing this for commercial. They are not changing the rule on commercial. Mr. Einsweiler said there is no current rule on commercial.

Councilmember Igleheart said his concern is on residential.

Mayor Wood said for commercial, there is no break; it cannot be built to the original footprint. This is simply an exception for residential. Mr. Einsweiler said correct and they would work on that wording. Mayor Wood asked for clarification if this would be for all residential, multi-family on down, or simply for a single-family or attached.

Councilmember Igleheart said he likes the single-family or attached but it should be in terms of what is fair.

Mayor Wood said he is trying to get Council's direction.

Councilmember Diamond suggested that 50% stay in place for commercial and 100% replacement for residential.

Mayor Wood said it is her motion to make if she has consent from Councilmember Dippolito.

Mayor Wood said what he is hearing is that "for commercial if it is 50% or more, you rebuild it; if it is less than 50% it is back on the same footprint." He asked if that was correct. He said if it is residential, "you can build it back to the same footprint and I'm hearing residential of any category, multi-family on down." Mayor Wood said "I'm getting a nod over here." He said to Councilmember Igleheart that he thinks this achieves what he wanted.

Councilmember Orlans said, "What we are saying is, we are clarifying the residential but we are saying of any damage to any commercial project, a 50% rule or more, they would not be able to fix it or replace it the way it is. They would have to get one, an exception, or two, build it according to the new regulations." He asked if that was what he was hearing. Mayor Wood said correct, that is the current proposal. Councilmember Orlans asked what would they do if there is a non-conforming commercial area now. He said he could see if it is 100% damage of building it is back to today's standards but again, in the past if someone has had damage to their property, we have allowed them to fix the damage to the property.

Mayor Wood said “No, I don’t believe we have.” He asked for a clarification of that question before moving forward. He said “Current rule, if the commercial building is 100% destroyed, are they grandfathered and they can come back in the same footprint or do they have to come up to current regulations?”

Councilmember Orlans said we are saying 50% or more now.

Mayor Wood said “100% is 50% or more.” Mayor Wood asked for current rules for a commercial building if it burns down.

Councilmember Orlans said if it is 100%, he could see redoing and starting fresh and building it according to today’s parameters but if there is damage somewhere at 50, 60, or 70 percent, they may just rebuild it the way it is and insurance would do that for them.

Mr. Townsend displayed a section of the ordinance on the overhead and said this is the current section relating to a non-conforming building or structure and there is then additional language relating to a non-conforming use; this is building or structure. There was an inaudible comment and Mayor Wood said, “That is expansion, the question had to do if there is destruction.”

Mr. Townsend displayed a section of the ordinance on the overhead and said this starts the section on a non-conforming use that deals with change of use, discontinuance, expansion, and repair. Repair talks about the 50% replacement cost but that is a Use not a structure.

Mayor Wood said the question is, if someone has a structure and the architectural requirements do not meet current standards and it is more than 50% destroyed, would they have to meet current standards when the structure is rebuilt. Mr. Townsend replied yes.

Councilmember Dippolito said the way that language is written, they would have to either meet current standards or come back for a variance which gives them the opportunity to argue their case. Mayor Wood said yes, they could come back for a variance.

Mr. Townsend said the new language proposes an option of going to...[the comment was not completed].

Mayor Wood said to Councilmember Orlans that as he currently heard, the proposal from Councilmember Diamond and Councilmember Dippolito is that they would propose that in the event of residential property, it could be rebuilt to the current footprint. For commercial property, if it is more than 50% destroyed, it would have to be built under new standards. If the destruction is less than 50%, it would be built by old standards and could be rebuilt as it was. Councilmember Dippolito said or they could come back for a variance. Mayor Wood said coming back for a variance always.

Mayor Wood said that is as currently proposed and asked if anyone would like to make an amendment to that. There were no Council comments. Mayor Wood asked Councilmember Igleheart to proceed with this proposed changes.

Councilmember Igleheart noted that the number of people in the audience was dwindling and for the sake of those who want to make comment, he would touch on the big issue items that need to

be discussed. He said there were other smaller items that need to be discussed but are not things that most people care about. He continued with his discussion.

- Page 3-16 – Section 3.2.8-Cottage Court

Councilmember Igleheart said this was mentioned earlier. He had two things to bring up. The first is that lot coverage was never in Cottage Court and out of nowhere there suddenly is a lot coverage that has to be 60%. He asked where that came from and said he did not remember any discussion. Mayor Wood asked if he is opposed to this and if so what his amendment is. Councilmember Igleheart said this reads “minimum” but it actually means “maximum” and asked if that is what was corrected before. He thought he circled it because it reads minimum. Councilmember Dippolito said item #7 on the spreadsheet changes it to “Building Coverage (maximum)” because they used the term “building coverage” throughout the document rather than “lot coverage.”

Councilmember Igleheart said the second issue is the court in the center of the Cottage Court. The court is illustrated as nice and green on all of the pictures and drawings but as it is proposed now, it does not have to be green. It could be a plaza, it could have cement over it, it could be a detention pond, or even have a driveway in the middle or any number of things. He asked if that is what they really intend in a cottage court. He said he is in favor of variety but asked if this gets what they intended.

Councilmember Diamond asked if there could be a driveway in the middle. Mr. Einsweiler said this expressly says it cannot be driven on but other than that it could be a number of other things. Councilmember Diamond said as she remembered the discussion, landscaped was the term they used and that is not necessarily green although it is not parking or driveway but it could be hardscape, but with their limitations of pervious surface it would be very difficult to do based on the way the stormwater management is presently configured. She said between the trees that must be planted, the landscaping that is required, the buffers and all the different parts, developers are finding that every scrap of pervious surface is something they work toward. She said her neighborhood is putting verge strips in the driveways to capture those few little inches of square feet of “pervious surface, impervious surface” back into the mix. It is a very tight thing in most case. She thought that was how they had resolved it. They do not have a specified greenspace; they have a landscaped space.

Councilmember Igleheart asked where that is stated regarding landscaped space. There were inaudible comments. Councilmember Diamond asked Mr. Einsweiler to address this.

Mr. Einsweiler said in a sense this is not very tightly controlled. While the drawings are illustrative and might help figure out the right thing to do; they could add additional language to tighten up the fact that the courtyard is intended to be just a landscaped area for use by the residents. It is typically intended to be open to the residents only so they are allowed to fence it off but other than that, it is supposed to be a useable greenspace that all the residents would share.

Councilmember Igleheart said that is how it should be, and that would be his suggestion.

Councilmember Diamond asked if it would be appropriate to put it on page 2-2 under Building Types. Mr. Einsweiler said they would try to put a definition of some sort in the rules for all building types to the courtyard itself because this is a unique feature of the

Cottage Court. Councilmember Diamond asked for suggested wording for that. Mr. Einsweiler said he would work on it.

Mayor Wood asked Councilmember Igleheart to continue to the next item and said he thought the suggestion was that Councilmember Diamond would accept his recommendation and work on some language, and they would try to get that before finishing tonight.

- Page 5-4 – Section 5.2-District Components

Councilmember Igleheart said this is district components for the downtown area that deals with height. He said Section 5.2.2-C currently states, “In DR- and DX- only, stacked flats, mixed use buildings and general buildings may exceed the district height limit by a maximum of 2 stories.” He then said the only things that are allowed in DR which is Downtown Residential that would be high enough are going to be stacked flats. They do not allow mixed-use buildings and general buildings. He suggested not allowing two more stories in the downtown area on top of apartments in the DR district, only allow it in DX which is mixed-use but not in the residential part. They should strike DR from Section 5.2.2-C.

Councilmember Diamond said she believes it is already Conditional. Councilmember Igleheart said it is Conditional but he is saying he does not think that should be one of the areas where it should be. Councilmember Diamond asked if he was referring to DR only. Councilmember Igleheart said yes, to strike DR from that. Mayor Wood said it would not leave the flexibility with Council. Councilmember Diamond said she needs to be sure that the Historic District does not allow for that now. Councilmember Igleheart said he is fairly sure that the Historic District does not allow four or five story buildings.

Mr. Einsweiler said portions of Groveway were moved into DR and the original concept for DR was derived from the Groveway regulations which allowed for one additional story of height. This allowed for potentially conditionally two additional stories of height but they are trying to carry over the concept from the Groveway residential where the DR was.

Councilmember Igleheart said then in reverse they would keep DR and DX and instead of two stories, make it one story. Councilmember Diamond said she could do that. Councilmember Igleheart said that would work. Mr. Townsend asked if that is just for DR or DX also. Councilmember Igleheart said both, in paragraph C of Section 5.2.2, change “maximum of 2 stories” to “maximum of 1 story.” Councilmember Igleheart said for clarification, change for both DR and DX.

Mayor Wood asked for Councilmember Diamond’s position on this change. Councilmember Diamond asked if that would cover them on the parts of Groveway that have four. There was an inaudible comment. Councilmember Diamond said yes, she is good with that. Mayor Wood asked if this is acceptable to Councilmember Dippolito. Councilmember Dippolito agreed with the change.

- Page 5-4 – Section 5.2.3-C, Application of Height Designations

Councilmember Igleheart said this states, “Height along Canton Street should not exceed 2-1/2 stories.” He said “should not” should read “shall not” which would make that the limit. Councilmember Diamond asked if they are allowed three now. Councilmember Igleheart said, maybe 3. Councilmember Diamond asked if it is 3 or 3-1/2. Mr. Townsend said they are currently allowed 3 on Canton Street. Councilmember Igleheart said then he is not sure

why this reads “should not exceed 2-1/2” if they already do. Councilmember Diamond said “because it is allowed does not mean we are excited about it; it is the ‘should’ or ‘shall’ thing, trying to telegraph what it is we prefer.”

Councilmember Igleheart said they keep saying that Canton Street is the special area and he is suggesting that it read “shall not exceed 3 stories” to protect that.

Councilmember Diamond asked if he would prefer 3 rather than 2-1/2. Mayor Wood said “shall not exceed 3 stories” vs. “should not exceed 2-1/2 stories” is the proposed change. Councilmember Igleheart said “should not” could be two more on top of that.

Councilmember Diamond said as long as this covers in the places where it is already allowed because there are those parts of Groveway in the Historic District.

Mr. Einsweiler said there are two pieces to Canton Street, the lower portion which is in Shopfront and the upper portion which is in Downtown House. The 2-1/2 is clearly responding to Downtown House and it is actually covered by the district standards themselves. The DS is not included in the conditional additional stories so it would allow only 3 stories. He said he thinks they could strike that sentence and it would have zero impact. Councilmember Igleheart said that works.

Councilmember Diamond said they are removing “C” from Section 5.2.2.

- Page 7-4 – Section 7.2.1-District Standards – CIV: Civic and Institutional District
Councilmember Igleheart referring to the section on Building Setbacks said this is where churches and “other things” can go into a neighborhood; his concern is that it now has building setbacks of 5’ and 10’. He asked if that is what they really want if they end up having a civic function in or near neighborhoods. He noted they have had many issues with churches; he asked would they really want to allow them to build 10’ away from everyone around them.

Councilmember Diamond said there is additional coverage of the buffers based on the protected district or what it abuts.

Councilmember Dippolito referred to page 10-13 of the UDC and said Civic is a C/D buffer for all single-family residential.

Mr. Einsweiler said the setback would be inside the buffer.

Councilmember Igleheart said that was why that was more of a question and thank you.

- Page 9-10 – Section 9.5-B-2 Commercial Uses, Adult Care Center
Councilmember Igleheart read, “Where an adult care center is allowed as a limited use, the facility must be owner-occupied.” He said he has talked to Mr. Davidson about this and this goes back to a previous question about whether or not they can require the home to be owner-occupied. He said in this case, it is commercial use so it may not apply the same as living there but it opens up that “owner-occupied” can work and from talking with David Davidson they might be able to make that into a conditional use specific to Accessory Apartments and Carriage Houses. He said his concern as he has said before, and Liberty Square is the best

example of where there are older houses and if there is not some control, this opens the door to let someone build carriage houses in what is already a tough neighborhood and turning them into double rentals; essentially making them duplexes whether attached or separate. If owner-occupied is required, then at least it has been in the control of the City. He said that owner-occupied is in the current code for Accessory Apartments and Carriage Houses, so it is covered. Once that is taken out, the door is opened up all over the place for rental situations that multiply themselves.

Mayor Wood asked what his proposal would be.

Councilmember Igleheart said that David Davidson has said the language in Sections 9.7.1 and 9.7.2 would be, "The property owner which shall include title holders and contract purchasers must occupy either the principal unit or the ADU as their permanent residence but not both and at no time receive rent for the owner-occupied unit. The property owner shall sign an affidavit before a notary public affirming that the owner-occupied is either the main building or the accessory. The Zoning Director may waive this requirement for temporary absences of less than one year where the accessory unit has been permitted use for at least two years. Upon the sale of the property, a new owner shall be required to sign a new affidavit affirming owner occupancy." Councilmember Igleheart said this does go back to some trust factor but if the door is just opened up, he fears what can be allowed.

Mr. Einsweiler said for clarification, he has looked at each of the districts to ensure that he understands where the L's are to which that use standard would apply and it applies to adult care centers up to four aging adults. Therefore, this would be four elderly.

Councilmember Igleheart said Mr. Einsweiler was correct about the adult day center. He said that he had kind of jumped subjects and he was using that as being the opening to then going also into accessory uses.

Mr. Einsweiler said if he would like to make sure that neither of those takes place in an accessory apartment or in a carriage house, that would be the cleanest way to keep them from being split and to basically require it to be part of the home. He said basically, this is something that might well be a protected operation; less than six is often considered by the Fair Housing Act to be fair game. He said less than four aging adults and two caregivers would be acceptable.

Councilmember Igleheart said he was okay with the description on the commercial use. His point is that owner-occupied is used as a basis there. He said jumping to Accessory Apartments and Carriage Houses and leaving out the adult day care for six; he is just talking about general use, any house that allows accessory use, accessory apartment or a carriage house should also have an owner-occupied requirement.

Mr. Einsweiler said that is seen a lot but they have never found a place that could successfully enforce it; it is a feel good provision. Both the Carriage House and Accessory Apartment already go through the conditional process that everyone has agreed to. If Councilmember Igleheart feels that requirement is absolutely necessary, he would urge it be done during the conditional use permit process on a case by case basis depending on the sensitivity in the neighborhood. He said this is a difficult provision to enforce.

Councilmember Igleheart said it is in the existing code and he can see that it is difficult to enforce.

Mayor Wood asked if Councilmember Igleheart is proposing to amend the ordinance as read.

Councilmember Igleheart replied yes, to add what he just read to section 9.7.1

Mayor Wood asked Councilmember Diamond and Councilmember Dippolito if they accept that change.

Councilmember Diamond said she did not mind that but she had a question about group homes; she asked how this impacts that or is that a protected class that would not be bound by this.

David Davidson said he thinks Councilmember Igleheart is proposing this for accessory structures so it would not be the group home itself. The group home is an independent.

Councilmember Diamond said accessory structure under the current code could be a basement so if someone has a group home and people living in the basement and very seldom are they owner occupied...[she did not complete the comment].

Mr. Einsweiler said it would have to meet the full definition of an accessory apartment in a basement that would have cooking, sleeping; the full component of facilities where you would usually only find sleeping.

Mayor Wood said where we are is that Councilmember Igleheart is saying he would like these to not only be a conditional use, that it be allowed only for owner-occupied property.

Councilmember Igleheart said one of the two has to be owner-occupied.

Mayor Wood said either the main structure or the accessory structure and that is an amendment to what Councilmember Diamond and Councilmember Dippolito proposed. He said he is trying to determine if they accept this change from Councilmember Igleheart.

Councilmember Diamond said she is fine with this change as long as Legal is in agreement and this is not outlawing group homes. David Davidson said this is a policy decision and that he just provided language that Councilmember Igleheart asked for. Mayor Wood said then Legal is okay with this. Councilmember Diamond accepted the change.

Mayor Wood asked Councilmember Igleheart if this is acceptable to him.

Brad Townsend requested the language from Councilmember Igleheart.

Councilmember Igleheart said it is for sections 9.7.1 and 9.7.2. He said this specifies that one of the two must be owner-occupied which again is what the City code already says.

Councilmember Dippolito said he had two questions. First, he wanted to make sure there is no violation of Fair Housing laws with this provision. Mr. Davidson said he could not say that absolutely but that language is in several codes throughout the United States, has been

taken to court, and has been found okay but that is not to say that eventually with the regulations out there now...[he did not complete the comment]. Councilmember Dippolito asked if to his knowledge it had been challenged and survived. Mr. Davidson replied, so far yes.

Councilmember Dippolito asked where the language is being inserted. Councilmember Igleheart replied in sections 9.7.1 and 9.7.2 which are Accessory Apartment and Carriage House. Councilmember Dippolito thanked Councilmember Igleheart.

Brad Townsend said they would probably add this language as a new #6 in paragraph B of sections 9.7.1 and 9.7.2. He read the language as follows, "The property owner which shall include title owner and contract purchaser must occupy either the principal unit or the ADU as a permanent residence but not both and at no time receive rent for the owner-occupied unit. The property owner shall sign an affidavit before a notary public affirming that the owner occupy either the main unit or the ADU. The Zoning Director may waive this requirement for temporary absence of less than one year where the accessory unit has been a permitted use for at least two years. Upon sale of the property, a new owner shall be required to sign a new affidavit affirming owner occupancy." Mr. Townsend asked when that affidavit would be received and said this is really not enforceable. He asked if this really not been challenged.

David Davidson replied that it has been challenged but it has been upheld; he is not saying it is enforceable. Mr. Townsend asked if it had been challenged in Georgia. Mr. Davidson replied not that he knew of in Georgia. He stated that Councilmember Igleheart asked for the language, which he provided, but he was not saying it is enforceable. Mr. Davidson said, "It is the same way as we require everyone that we provide a benefit. And, an occupational certificate is a benefit to them so we require the SAVE affidavit by state law. So, it is just an affidavit that they are swearing."

Councilmember Igleheart said enforcement is not wholly impossible; there are people who actually follow the rules. He said it at least has some theoretical control that hopefully most people are going to basically follow; some won't but that is a problem we have now; we do have ways to deal with that if it is really bad.

Mayor Wood said there is consensus to put the language in.

- Page 11-3 – Section 11.2.6-D-3 Common Open Space, Approval of Common Open Space
Councilmember Igleheart read, "The City may choose to receive a payment in lieu of the open space at a rate to be determined by the Engineering Director, and approved by the Mayor and City Council." He said he is concerned because there is a common open space but someone can just pay some money so they won't have to have it. He said he understands in some instances that might be needed. Mr. Townsend stated it would be taken out. Councilmember Igleheart thanked him.
- Page 10-13 – Section 10.2.3-Neighborhood Compatibility Buffers, Chart
Councilmember Igleheart said he would be making the same argument he has made throughout. As this is proposed, AG-43, RS-87, RS-30, RS-18 and RS-12 are the biggest lots that are generally in the residential around the City. This is proposing to allow RS-9, RS-6, RS-4, R-CC and R-TH which are much higher density with much smaller lots and RM-2 and RM-3 which are apartments to have an option of having an 8 foot wall and a 20 foot buffer as

opposed to the existing 40 foot buffer plus the extra setback on top of that. This is the wrong approach when they have said they are going to protect the existing residential with what they currently have and now coming behind them and putting something that gets approved and the developer can choose this 20 feet; it does not sound like a lot, but it is a major difference from the existing major big lots in the subdivisions. This is a disservice to the residents we told we are not going to make any major changes unless somebody comes in with some of these smaller things near you that wipes out the buffer. In regards to the wall, we have an entire difference of opinion. When you are on your extended deck in your back yard, you look right over that and you are going to be that much closer to those buildings. He said his amendment is to strike the C out of all the columns in AG-43 through RS-12.

Mayor Wood asked if Councilmember Diamond and Councilmember Dippolito are willing to accept that change.

Councilmember Diamond said she is comfortable with the way it is because we are not zoning any of these properties to those categories and those discussions will happen on a case by case basis; there are places where the topography is such that it is perfectly appropriate. It gives a place to start and they are not putting any of these on the ground today, and that will be part of the discussion.

Councilmember Igleheart said they need to understand this is what they are allowing as the parameters for when new things come in.

Councilmember Diamond said they are not just coming in, they are coming in as a request for rezoning and Council makes that decision if it is appropriate for that small to be that close and if it is not, we say maybe it's close enough with a bigger buffer or maybe it's not close enough and we are not going to do it.

Councilmember Igleheart said when we give the developer a choice, how do we make a legal argument now that we want to do the other one.

Mayor Wood asked Mr. Davidson "Is it going to be a legal argument to be made to turn down the zoning request?" Mr. Davidson replied, absolutely.

Mayor Wood said to Councilmember Igleheart that he would leave this as an issue for him to raise by amendment.

Councilmember Igleheart asked how many other rezonings we have had where we are basically stuck by whatever that parameter is; he said we are making the parameter smaller.

- Page 10-14 – Section 4.4.4-Bulk Plane

Councilmember Igleheart noted that bulk plane is in each section of the residential and he was using this page as an example. He said this is basically the same concern although it is related more to neighborhoods that back up to some of the major highways and less likely to happen. The problem is when a building goes higher than the existing 3 stories up to 4, 5, or 6. He said he thinks 5 stories is 88 feet away from the property line and these numbers might sound big but they really are not, particularly when on a deck in the back yard now looking out at a 4-5 story building. These distances are not very far and although they look good in the pictures, in the end they are not. In order to have more protection, he proposed that the

first 100 feet be no more than the 3 stories that is currently allowed; 101-150 feet should be a maximum of 4 stories and beyond that they could do what they want. He said he had brought up an example on S. Atlanta Street where this could be a problem that is just past Barrington Hall; it was said that could not be done but he made it work easily by just drawing it out on the plat using the real dimensions, and it worked including parking, greenspace, water, etc.; he thinks this can happen. The goal is to protect existing residential properties like they have said they are going to do. In summary, the proposal is to change the bulk plane from what it is to the first 100 feet from property line to be 3 stories maximum; 101-150 feet to a maximum of 4 stories. He said realistically it would not apply in that many places.

Mayor Wood asked Councilmember Diamond if she accepts this change.

Councilmember Diamond asked the consultant for his opinion of the viability of the idea.

Mr. Einsweiler said that he and Councilmember Igleheart differ on this issue. For example, thinking about the 2-1/2 story house where he grew up, this would have been the third lot away with two intervening lots before hitting the 4-5 story setting and he would have been quite comfortable with that but admittedly not right outside his backdoor. He said as originally drafted at a 45 degree angle, it was acceptable, and that has been cranked down to a 30 degree angle. He said all he sees is "big green bands" making small versions of these things impossible. The little kinds of infill that they perhaps imagined simply will not be possible. They would be using those new districts only in cases where they are getting entire large blocks of land simply because so much land will be needed for the buffers to get back to the lots themselves; they might as well have put the two big lots on there. It is a challenge working through this; they will have a design review conversation; that is admittedly designed not to take away any of the entitlement but to talk about how the site is laid out, etc. He would far rather have that conversation in that setting. If there is a specific instance in a specific setting, then set a general parameter that sets so many possible locations off limits because the buffer is so large.

Councilmember Diamond said they have chipped away at this already.

Mayor Wood said Councilmember Igleheart could propose that amendment when they get to the vote.

Councilmember Igleheart said he would discuss his proposed map changes. Brad Townsend said Mr. Einsweiler had the language completed for the destruction section and asked to proceed with that before moving on. The language was placed on the overhead.

Mr. Einsweiler referred to the language at the top and said it is intended for residential and read, "May be restored within the existing footprint to the condition existing immediately before the damage or destruction and that allows for 100% replacement of conforming residential use in a non-conforming structure." He referred to the second section of the language and said it basically says it has to be restored in conformance with the UDC unless you get a variance. These are polar opposites, so Residential and Civic would be allowed the grace of 100% restoration of the existing and non-residential would be allowed no grace without a variance from the Board of Zoning Appeal.

Councilmember Diamond asked “Do you want the 50% or are you good?” Mr. Einsweiler said there would always be access to the repair provisions and other kinds of things associated with the building code which is what they are presently relying on; it is just that again the building code at a certain point would kick you out and bring you into compliance. He believed that repair after a storm on a commercial structure would still be allowed but not something really substantial; if it clearly had to be rebuilt from the ground up, then this says a variance would be required in order to do that on the same footprint if it was nonconforming.

Councilmember Igleheart said he understands the point that some things have been rezoned in the past with minimum square foot lots of smaller than what is actually built and done so they could squeeze as much in as possible using setbacks that are allowed on the smaller lot size, but what is actually built is much larger. Also, if things burn down and they are not within the conforming zoning, they may not be able to build back. His concern is when there are some that are RS-6 and RS-9 in particular; the door is now open for the next person who wants to rezone to say that is next door to them. Even though, perhaps only one lot there is actually that small, this is giving the builder the option to say “that’s what’s right next door so you have to give it to me too and then we have the domino going right down the row.” He was particularly concerned about areas in the Parkway Village, on Eves Road and Nesbit Ferry; he said that is what this is creating. He asked if that is really what is wanted.

Mayor Wood said he did not think that is what they wanted, and agreed with Councilmember Igleheart on that point but said he did not agree with the domino theory that if Council puts it on one parcel that it would automatically happen on the next parcel. The Mayor said he did not share that fear.

Councilmember Igleheart said it just happened on Rucker and Houze; that’s what they basically gave them because that was what was next to them and around them. He said it happens all the time.

Mayor Wood said it happens but not because of dominos, it happens because of public and community support for projects, and when the community supports a project, the Council is more likely to go along with it. The Mayor said he has not seen Council go along with it when the community opposed a project.

Councilmember Igleheart said they will just disagree on how those worked out but that is his concern on a number of them.

Councilmember Igleheart referred to the map noting the first three RS-9’s going from Bulloch Hall down SR-120. He pointed out what he said were the three or four parcels to the east of what is actually development that are relatively large compared to the other on SR-120 near Willeo Road. He brought this up because it was on the previous list that he thought showed it being changed back to RS-1 or RS-2. He pointed out Westcroft Lane in the top right corner on the map and said it is the two parcels next to the blue tract.

Councilmember Orlans said he thought it was part of the subdivision of Westcroft Lane because they had a separate lane coming down parallel to SR-120 with emergency access to it; those are already zoned and there are homes there. Mr. Townsend agreed and said they are in that current subdivision.

Mayor Wood asked if Councilmember Igleheart was proposing a zone change from what is currently showing. Councilmember Igleheart replied no.

Councilmember Igleheart said his final proposed map change is on Old Roswell Road; he pointed it out on the map on the overhead and asked if it is currently agricultural. He said it is in the middle of industrial. Mr. Townsend said it is R-1. Mayor Wood asked if Councilmember Igleheart was proposing a different zoning category than what is shown on the map. Councilmember Igleheart replied it should be whatever it is zoned now because it is two big parcels of empty land that they are saying to make Commercial Mixed Use, which is a big jump. Mayor Wood said Councilmember Igleheart is proposing Commercial R-1 and asked what it is shown as on the map. Mr. Townsend replied it is Commercial Mixed Use. Mayor Wood asked Councilmember Diamond and Councilmember Dippolito if they would like to change that to R-1 or leave it at as is. Councilmember Diamond said that is completely surrounded by commercial and everything they would need to do it would have to come to Council. Mayor Wood asked if she is supporting current zoning. Councilmember Diamond replied yes. Mayor Wood said they would entertain an amendment for this change.

Mayor Wood asked if Councilmember Igleheart had any other proposed map changes.

Councilmember Igleheart replied that was all he had.

Mayor Wood asked for any other amendments by any other Councilmembers before opening the meeting for public comment.

Mayor Wood said to summarize there is a motion by Councilmember Diamond and a second by Councilmember Dippolito with the changes which they have noted. He asked Councilmember Igleheart to recall for the record, the changes he would be asking to amend because they had covered them all but many had been reconciled.

Councilmember Igleheart said he thought someone else was keeping track of that. Councilmember Diamond said she had a list. Mayor Wood said Councilmember Diamond could provide what she believes is the list and asked Councilmember Igleheart if he would like her to cover those. Councilmember Igleheart replied yes. Mayor Wood asked Councilmember Diamond to go over her list.

Councilmember Diamond said she had only written down the ones that they decided to adopt here. Mayor Wood asked if those are ones that she concurs with. Councilmember Diamond replied yes. Mayor Wood said they would not need to go over those, they need the ones for which Councilmember Igleheart was not concurring. Councilmember Diamond said she could not help with that. Mayor Wood asked Kay Love to go through the list of those that had not been concurred with.

Mayor Wood asked Councilmember Diamond to identify the ones that she had agreed to accept.

Councilmember Diamond began listing the changes as follows:

- Page 2-6: the rooftop illustration
- Page 13-33: add the casualty clause to 13.13.1, C and D
- Page 2-16: 2.2.19, 2, c – 20 foot minimum

Ms. Love said going back to page 2-15 in section 2.2.19-B-1, the no garage door...[she did not complete the comment].

Mayor Wood said that was not reconciled and he last heard that Councilmember Igleheart was still insisting on it. Councilmember Igleheart said his concern was that it could be rebuilt and thought they had dealt with that. Mayor Wood said Councilmember Price has a concern so that one is still on the list and she may repeat that motion.

Mayor Wood asked Councilmember Diamond to continue with unresolved items.

Councilmember Diamond continued listing the changes as follows:

- Page 3-6: remove the two-family option
- Page 3-29: carriage house, after effective date, all conditional – Councilmember Dippolito was going back to accessory apartment
- Page 4-23:
Councilmember Diamond said she has this one as crossed off. Ms. Love said the official zoning map takes care of the mixed use building. Councilmember Diamond said for 4-23, refer to the zoning map.
- Page 2-2: they are waiting on wording for courtyard parameters

Ms. Love referred to page 3-29 on changing accessory apartment to conditional from limited and said there were others for instance on page 4-34; she asked if Councilmember Diamond had a change for that. She said Councilmember Igleheart brought it up but she did not know if there was a resolution on it. Mayor Wood said there was no resolution and asked Councilmember Igleheart if he was keeping track of the items that were not resolved. Mayor Wood said those are being covered now. The Mayor told Councilmember Igleheart there would be another opportunity for him to bring them up following public hearing.

Councilmember Diamond continued listing the items to be changed:

- Page 5-4: Section 5.2.2-C – change 2 story to 1 story
- Page 5-4: Section 5.2.3-C – delete

Ms. Love asked to go back to changing the lot coverage on Cottage Court, the 60% maximum that was minimum. She said that was just grammatical and asked if that one was okay. Councilmember Diamond said that was in the original spreadsheet.

Councilmember Diamond continued listing the items to be changed:

- Page 9-21: insert the owner occupied requirement clause in section 9.7.1-B-6 and 9.7.2-B-6
- Page 11-3: section 11.2.6-D – delete number 3

Ms. Love said they had talked about changing the allowing of 2-1/2 stories in the 3 max to 1 additional story on Canton Street. Councilmember Diamond said she thought they had deleted that clause. Ms. Love said she thought Councilmember Diamond was naming things that she had agreed to. Mayor Wood said there was no agreement on the bulk plane rule. Ms. Love said that was 5.2.2-C. Councilmember Dippolito said yes, that was reduced from 2 stories to 1 story. Ms. Love said then 5.2.2-C, which is the Canton Street language. Councilmember Dippolito replied “deleted.” Councilmember Diamond clarified that they are deleting that.

Mayor Wood asked Councilmember Igleheart if he had his list of items that he intends to raise.

Councilmember Igleheart said there are two that were not on the list stated by Councilmember Diamond; they are the buffers on page 10-13 and the bulk plane.

Mayor Wood asked for any other amendments that the Councilmembers anticipate proposing.

Mayor Wood said they would hear the Courtyard definition from Mr. Einsweiler.

Mr. Einsweiler said the simplest way to handle this is to define the Courtyard. This is the only element in the book that contains a courtyard so they would add a new one in the definitions and he suggested, "a space open to the sky improved with landscaping, garden or similar greenspace as an amenity just around the cottages."

Councilmember Diamond referred to page 2-2 and asked if they could put something where Cottage Court is described. Mr. Einsweiler replied yes.

Councilmember Wynn asked Mr. Einsweiler about the definition for courtyard and said she assumes with "open to the sky" there could be nothing impervious like a roof or canopy, he was meaning more of an opaque type of structure. Mr. Einsweiler said no roof structure. Mayor Wood said no structure but vegetation is okay, and there could possibly be a pergola that was not roofed.

Mayor Wood opened the meeting for public comment.

Public Comments:

Mayor Wood noted that each speaker would be allotted five minutes to make comments.

Lisa Decarbo, 130 South Shore Court, said she had sent a question to Council and staff regarding the northern boundary on the parcel at 1221 Riverside Road. She said it was fixed on the GIS map but it had not made it onto the UDC map. Planning and Zoning Director Brad Townsend's response was inaudible. Ms. Decarbo replied "okay, thank you."

Kendra Cox, 250 Meadow Wood Drive, read a letter from Stuart Teague, of Teague and Chambliss, Attorneys at Law into the record. Ms. Cox stated:

"Dear Mayor and City Council: This letter is written on behalf of Eric Schumacher in connection with the consideration and adoption of a new Unified Development Code the ("UDC") by the City of Roswell (the "City") and to preserve objections to the consideration of the UDC and the new zoning and development code it contains. This letter is written on behalf of Mr. Schumacher and any other affected citizen of the City that may not be aware of the nature of the City's contemplated actions and a lack of notice.

The City's manner and procedure of attempted compliance with the Zoning Procedures Law, O.C.G.A. § 36-66-1, et seq. (alternatively referred to herein as the "ZPL") negates legal compliance with that law. Among other things, the UDC under consideration at the time of the City's readings and hearings on the new code was never made available in any certain form to the public in a manner in which the public could understand the changes to the UDC. In addition, the

City's attempted publications of hearings were negated by the City's actions of lobbying the public not to appear at the hearings the City advertised for public input into the UDC. Also, City Council has prejudged the adoption and consideration of the UDC by stating that the UDC under consideration will not make changes to the substantive restrictions and permitted uses within zoning use districts. The written notices sent by the City further made public statements about the UDC to cause the public to acquiesce to the adoption, which statements were not accurate or true with regard to the UDC under consideration.

For example, in an insertion in water bills sent to advertise the public's opportunity for input for the August 2013 community meetings on the UDC changes, the insert stated the public need not be concerned with the adoption of the UDC. It further stated, inaccurately, that home owners should not be concerned with the UDC changes in that the changes would not, allegedly, change the permitted uses of their properties. Furthermore, on June 27, 2013, the City mailed notices of the consideration and hearings on the UDC to members of the public with the following bold faced statement: "All of the existing rights allowed on the property will remain." (Emphasis in original). This language was followed up by a bold faced statement to property owners instructing them that they "do not need to do anything." (Emphasis in original). These statements were in bold faced form while no other statements in the notice were bold faced.

The statements regarding the effect of the new UDC on existing rights allowed on the property were not accurate at the time they were made. The UDC makes changes to existing rights on the property of land owners in the City. The City's UDC eliminates and changes permitted uses on properties in the City, in many instances changing the rights of property owners and their neighbors. In fact, a main purpose of the UDC changes was to change the existing rights of property owners.

By taking a pro-adoption marketing approach to the notices mailed to land owners, the City actively encouraged members of the public not to participate. However, the purpose of the Zoning Procedures Law is to increase public participation in the zoning process, and is not to instruct citizens not to participate. The ZPL was further violated by statements that existing rights would not be changed. This misinformation literally reads to instruct citizens that the UDC did not make substantive changes to the permitted uses in the new zoning districts when in fact the contemplated UDC does change such rights.

Furthermore, the instruction in the City's published notices that the UDC would not make existing changes to property rights could not be made by the Mayor and City Council. The City could not make promises to the public during the legislative process that the City would not change existing rights in the property because such published promises would have constituted a prejudgment of the Mayor and City Council's actions in amending the zoning ordinance. In other words, not only were the pro-adoption marketing statements false regarding the changes under the new UDC to property rights, but also the statements never should have been made in the first instance. Neither the City nor its employees had any public participation function in making statements in an attempt to eliminate public concern in advance of public meetings and participation. The City is required to restart the public hearing process without sending notices to the public informing the public, to the effect that, "citizens have a right to participate, but you shouldn't waste their time doing so because the City has their best interests in mind."

The end result of the City's statements in public notices regarding the UDC adoption has been to prevent persons who are affected by the new ordinance from appearing at and providing input

into the adoption of the UDC. The UDC therefore represents the culmination of a process designed to minimize public input. Accordingly, the process chosen violates the Zoning Procedures Law, O.C.G.A. § 36-66-1, et seq., and provisions of Georgia law designed to preserve the legislative process, and the Georgia Constitution of 1983, Article I, Section 1, Paragraph 1, Article I, Section 1, Paragraph 2, and Article I, Section 3, Paragraph 1. The process further violates the rules and procedures of the City of Roswell designed to comply with the Zoning Procedures Law. The statements further violate Georgia law provisions designed to preserve the legislative process, including provisions that prohibit the City Council from prejudging the adoption of ordinance and ordinance amendments.

Stuart Teague, Teague & Chambliss, LLP.”

Mayor Wood noted that the letter would become part of the record.

Ralph Mills, member of Roswell Downtown Development Authority, expressed appreciation to staff and Council for the incredible amount of time, energy, and effort put forth to help bring this beginning change to Roswell. Mr. Mills stated this is a very important document. He said whether it is totally correct is not really as important tonight as the fact that it moves forward.

Lance Ledbetter, 680 Rounsaville Road, stated he is a board member of the Saddle Creek Homeowners Association (HOA) and would be speaking on behalf of the Saddle Creek Subdivision. The Saddle Creek HOA appreciated the meeting they previously had with Mr. Townsend; many changes have taken place since that meeting; there are concerns regarding the timeline of the passage of the UDC. Mr. Ledbetter stated, “UDC technically does not increase density by its passage, however, it does remove the density limits Roswell currently uses and creates zoning categories that will possibly double or triple in that capacity as far as existing densities allowed. The UDC has adopted wording to allow for exceptional circumstances in place of allowing RS-4, RS-6, and RCC from Suburban Residential.” He asked what are the limitations defined as exceptional circumstances. Mr. Ledbetter said he understood that there are no limitations; it is based on the Mayor and Council’s input on an exception by exception basis. He said, “You cannot apply ruling relevant to exception declining based on traffic issues in and of themselves, which is a serious concern to our area around Saddle Creek. If you cannot decline a zoning request based on traffic issues alone, that creates a problem for us, as well. The question is simply, what are the limitations related to exceptional circumstances and the concern currently is, property that is within a half mile of our subdivision that borders Chaffin Road and Crabapple and Hembree that very well could be one of the first exceptions brought before the Council.”

Clair Snedeker, 765 Whitehall Way, referred to the wording changes for RS-6, Cottage Court, said, “First, the key guardian for managing the residential density seems to hinge on the Council’s interpretation and application of this term ‘exceptional situations.’” She expressed concern regarding the densities at Rucker Road and Houze Road; she stated they are the density of RS-6 in Cottage Court. She asked what the Council’s intent is regarding administering the exceptional situations.

Mayor Wood stated, “My intention is not to increase the density of any neighborhood unless I have strong support from that neighborhood to increase the density.”

Ms. Snedeker replied, “But there is infill.”

Mayor Wood replied, "When I have a neighborhood such as Groveway, which supports increasing density, then I support them. When I have a neighborhood that is opposed to it, I oppose it."

Ms. Snedeker replied, "There is considerable re-development land and infill in Roswell and so that statement doesn't (*incomplete comment*).

Mayor Wood stated, "I will tell you how I personally feel. I live on fifteen acres, two houses. I do not anticipate in my lifetime any increase in density on that fifteen acres."

Ms. Snedeker asked about his neighboring areas. She asked how is the Council going to administer adjacent, compatibilities, in the exceptional situations.

Mayor Wood replied, "As we have in the past, and this Council has been very responsive to the concerns of the community to create neighborhood quality, and I think we have an excellent track record."

Ms. Snedeker replied, "I think there are many areas where it is excellent, but I also have the situation at Rucker and Houze where it is, looking at an aerial map, it is not that. I am also concerned that the exceptional situations might vulture the redevelopment for the corridors, which is what we talked about at one of the meetings before. Any one deal like a Chaffin Road deal, is an opportunity for being in the corridor but it may not be."

Mayor Wood replied, "I anticipate the redevelopment focus being on the Highway 9 corridor south of Holcomb Bridge Road."

Ms. Snedeker asked how that addresses exceptional situations in residential.

Mayor Wood replied, "I think exceptional situations is going to have to be a very strong argument for higher density which would include transitional properties, properties which have strong community support for a higher density because of adjacent properties at a higher density. I don't see any significant change in your neighborhood. I don't see any real change."

Ms. Snedeker said, "And again, I extend that beyond where my child goes to school, it is a lot of area. It is not just my neighborhood."

Mayor Wood said, "I wrote an article that said I don't believe in 95% of Roswell you are going to see any change."

Ms. Snedeker referring to the suburban residential buffer, said she had heard there are certain topographies where an eight foot wall and the twenty foot buffer may be appropriate but then other areas where it would not be appropriate. She asked why that is not an exception based code so that it does not fall into the trap where it cannot be turned down.

Mayor Wood replied, "We are not in that trap. We can turn it down."

Ms. Snedeker asked for clarification if a type "A" buffer zoning request be turned down.

City Attorney David Davidson replied, "There is always a way to turn down a zoning request. It doesn't have to be specific to a certain reason. That gentleman earlier said the traffic cannot be

the only reason; that is true, but there is always a density issue to go along with the traffic which could be turned down.”

Ms. Snedeker replied, “It can be then among other things to turn down but it can’t alone be turned down. Whatever amendment might be coming or whatever consideration tonight about making that exception based language because it seems like you don’t have a downside. You have the exception based for the topography it works, but you don’t have to come up with other reasons where it doesn’t work. Thank you for your time.”

Janet Russell, 260 Willow Springs Drive, said she has lived in the SR-9 corridor south of Holcomb Bridge Road to the river for forty years. She said the Mayor just made a public statement that is the area “that you are going to change the density and make it higher.” She noted that over the years she has been a proponent of pedestrian accessibility for this older section of Roswell and has repeatedly asked the City for sidewalks. She expressed concern that there still are no connecting sidewalks in this area on Highway 9 for walkers; weekend traffic is backed up southbound from the river due to a traffic control device; residents in that corridor will see that sort of traffic every day if density is not controlled; residents of this older section of Roswell have been the “anchor” of this community; the multi-modal path on Highway 120 was under construction within two weeks of project approval. Ms. Russell thanked Councilmember Price for getting the corner of her street repaired; she said it had been a three year wait after water pipes had been replaced. Ms. Russell said she would like to see the radio tower placed on Mayor Wood’s fifteen acres.

Lee Fleck, Martins Landing, said this public format does not afford individuals who speak the opportunity to challenge any responses made. He said thankfully, Mayor and Council postponed the final UDC approval until tonight. Mr. Fleck, referring to the City Attorney’s responses to his recommendations for consideration relative to tenants of the infrastructure sufficiency sections that existed in other city codes said, “Mr. Davidson, your response to my suggestion relative to take a page out of Raleigh’s UDC, you stated can’t be a requirement for a developer to pay for systems improvements because impact fee already exist.” Mr. Fleck stated impact fee do not really accomplish infrastructure improvements; property owners eventually bear that cost; his intention was not to infer that traffic should be the only thing. While paying for infrastructure needs cannot be a specific requirement, one possible option is to ensure that surrounding intersections should be at a specific level of service. He suggested that Roswell Department of Transportation (RDOT) could determine the best size for intersections. Mayor and Council should incorporate such aspects before approving a development anywhere in the City. Mr. Fleck asked “What levels of service requirements exist within RDOT to address these concerns with peak morning hour trips through intersections throughout the City that are not going to be flushed away so easily.”

Nydia Tisdale, Brookfield Country Club, stated she would be speaking on the Unified Development Code. Ms. Tisdale said that on April 17, 2012, Governor Nathan Deal signed into law House Bill 397, the Georgia Sunshine Law; it is comprised of two components, the open records law and the open and public meetings law. She displayed the law on the overhead projector. Ms. Tisdale read from the document stating: an agency means every city; a meeting means the gathering of a quorum of the members of the governing body of an agency at which any official business, policy, or public matter of the agency is formulated, presented, discussed, or voted upon. The public notice required by the open meetings act; every agency subject to this chapter shall prescribe the time, place, and dates of regular meetings of the agency; such

information shall be available to the general public and a notice containing such information shall be posted at least one week in advance and maintained in a conspicuous place available to the public at the regular place of an agency or committee meeting subject to this chapter as well as on the agency's website; prior to any meeting, the agency or committee holding such meeting shall make available an agenda of all matters expected to come before the agency or committee at such meeting; the agenda shall be available upon request and shall be posted at the meeting site as far in advance of the meeting as reasonably possible, but shall not be required to be available more than two weeks prior to the meeting and shall be posted, at a minimum, at some time during the two-week period immediately prior to the meeting; except as otherwise provided by law, all meetings shall be open to the public; all votes at any meeting shall be taken in public after due notice of the meeting and compliance with the posting and agenda requirements of this chapter; any resolution, rule, regulation, ordinance, or other official action of an agency adopted, taken, or made at a meeting which is not open to the public as required by this chapter shall not be binding. Ms. Tisdale displayed various examples of public notices.

Mayor Wood alerted Ms. Tisdale that she had less than two minutes remaining in her allotted time.

Ms. Tisdale displayed a public notice and said that the same sheet of paper included an agenda; she displayed a notice to the public of a meeting of the Development Authority; she displayed a notice of the Fulton County Board of Ethics.

Mayor Wood informed Ms. Tisdale that her allotted time was complete and it would be necessary for her to complete her comments at this time. Ms. Tisdale had no further comments and thanked Mayor Wood.

No further public comments were made. Public comments were closed.

Mayor Wood said there is a motion and a second and he would hear amendments from Councilmember Igleheart at this time.

Councilmember Igleheart asked to clarify the accessory apartments, carriage houses on existing lots and...[the remainder of the comment was inaudible]. He asked if they had changed them to Conditional. Councilmember Diamond replied they changed the carriage houses but not all the accessory; they were Limited. Councilmember Igleheart said that is one amendment. Mayor Wood said he would give the option to make a combined motion or individual motions to amend but it would be up to Councilmember Igleheart how he would like to do that. Councilmember Igleheart said some might have more luck than others and he would try to do them quickly.

1st Amendment to Motion: Councilmember Igleheart made a motion to amend to change Limited to Conditional on page 3-29 – Accessory Uses category, Accessory apartment, attached in the four categories, RS-87, RS-30, RS-18 and RS-12 to change them back to existing. Councilmember Dippolito seconded. Councilmembers Dippolito, Igleheart, and Price voted in favor. Councilmembers Diamond, Orlans, and Wynn were opposed. Mayor Wood broke the tie by casting his vote as opposed. The motion failed 3:4.

2nd Amendment to Motion: Councilmember Igleheart made a motion to amend page 10-13, section 10.2.3. Neighborhood Compatibility Buffers to remove the buffer C option for districts

AG-43, RS-87, RS-30, RS-18 and RS-12 from RS-9 through PRD to require the 40 foot buffer and eliminate the 20 foot buffer with a wall. Councilmember Price seconded. Councilmembers Igleheart, Orlans, and Price voted in favor. Councilmembers Diamond, Dippolito, and Wynn were opposed. Mayor Wood broke the tie by casting his vote as opposed. The motion failed 3:4.

Councilmember Igleheart said he hoped they would never put an RS-4 next to an AG-43 but they would see.

Councilmember Igleheart asked David Davidson if there was language that could provide that Buffer D to be the standard default and Buffer C to be available in exceptional circumstances.

Mr. Einsweiler said he thought it would be best to support that concept in the design guidelines stating a preference for one option over the other and noted that is where all of the “should” and “wish we could” things ought to be and would be a great place to bring up this concept.

Councilmember Price said the design guidelines are just that, they have no meat. She said this is an ordinance, is it not? Mr. Einsweiler said no, the design guidelines that are done this round will be enforceable and will be a reason for denying development. Councilmember Price said “should is not “shall.” Mr. Einsweiler said “should is not shall” but the design guidelines are going to be enforceable and a development can be turned down if it does not meet the intent of the design guidelines. Councilmember Price said so they are not a guideline; they are an ordinance. Mr. Einsweiler said no, they are still a guideline and they must be balanced together; the general intent has to be determined which is why they are discretionary. Councilmember Price said so we will change the definition of guideline. Mr. Einsweiler said they would be working in a different guideline world than before but it is one that exists in many communities and that portion of the ordinance has been carefully lawyered to make certain they can operate in that world.

Mayor Wood called for further amendments.

Councilmember Igleheart said along the same lines as the buffers, in regards to the bulk plane, they have said throughout, and even tonight, that they will protect existing residents and so let’s do it, but we have not.

3rd Amendment to Motion: Councilmember Igleheart made a motion to amend the bulk plane to apply to all sections with the first being on page 3-24. Section 3.34 to change from what it currently states to be 3 story max for the first 100 feet from the property line and 4 story max for 101 feet through 150 feet. The remainder of text to remain the same that it ends at 150 feet. **The motion failed for lack of a second.**

Councilmember Igleheart said he had three other changes they had not gone over because they were technical and he thought people would not want to hear them. He then discussed telecommunication towers and said they are currently restricted to certain places. Someone cannot come in and meet requirements and put them in. He referred to the Allowed Uses table on page 4-33 and said there are telecommunication towers that are Limited use in CC and CH. He said they are not currently allowed; he asked David Davidson if that then opens a door so someone could ask for them where they cannot even ask for them today. He said if so, he would make an amendment to not allow that.

David Davidson said currently they are allowed in most “certain” zoning districts. He thought they had compared zoning districts where they are currently allowed and came up with the ones that are shown. He said changing that would be a policy decision.

Councilmember Igleheart said he did not have a chance to research this but it is also one of the things in Civic which is not generally allowed but it was one and they struck it, and he just caught this one earlier. He said he did not know what it is today.

Mr. Davidson said he thought now it is allowed in highway commercial in I-1. Mr. Townsend said C-3 and I-1.

Councilmember Igleheart asked if it is everywhere in C-3. Mr. Townsend concurred. Mr. Davidson said if they meet the requirements.

Councilmember Diamond said this is something they have talked a lot about and the rationale was to put it in the least likely place but legally you have to have it somewhere. They went through this extensively with the help of the City attorneys and ended up putting it here which is the least impactful place to stay within the law to not strike down our ability to regulate them anywhere. Councilmember Igleheart said but there are some other places they are allowed.

Councilmember Igleheart had one final item; he and David Davidson had discussed this. He said as he understands, by state law the map must be the official zoning map and it shows all of the zoning. He said throughout this process it has been hard to tell sometimes what color is what and they have a spreadsheet that backs that up. He asked if the spreadsheet could also be made a part of what is considered the official zoning designation so this is clearer for everyone to know exactly what is what.

David Davidson said Bob Hulsey suggested placing the reference in a legend on the map to the spreadsheet so it is on the map but refers to a spreadsheet and in that way it is also part of the map.

Councilmember Igleheart said he would ask that. Brad Townsend said he did not see what that does. Mayor Wood said it doesn’t hurt. Councilmember Diamond said it is basically the same thing. David Davidson said Councilmember Igleheart is saying that sometimes it is hard to determine what the map says. He said they can do it because they have the parcel number and can just see what it is but someone else looking at that might not be able to tell if it is CX, CS or ER and a legend could help determine that.

Councilmember Igleheart said as late as the last work session they found things that were wrong and it would have been much easier if they had started out using the spreadsheet which tells things as opposed to colors and guessing; this would be a better way to operate.

Mayor Wood asked if there was a disadvantage to doing this.

Brad Townsend said he did not know what they were putting on the map that helps read it better. Councilmember Igleheart said it doesn’t help read it but it makes the spreadsheet something that has been part of the official map as opposed to being just colors on a page.

Councilmember Dippolito said he understands what Councilmember Igleheart is saying particularly if there is something incorrect on the map. They are fairly comfortable the spreadsheet is accurate and a reasonable way for doing this would be to say the zoning map that is being approved is subject to the spreadsheet.

Brad Townsend said the spreadsheet creates the map.

Mr. Einsweiler said the GIS is two pieces; a database which is the spreadsheet and a visual of that by putting a color to one of the columns on the spreadsheet. You get both the spreadsheet and the map by using the GIS. If you are asking if the data table could be made available to the public as well as the visual version, he does not see that as necessarily a problem. For most GIS's that have been put up, every parcel is clickable and a data window pops up with the zoning. Even someone who is color blind could go to the web and click on the parcel and a data window would pop up. He said the point is that the two are the same thing.

Mayor Wood said they should attach the spreadsheet.

Councilmember Igleheart stated he had no further amendments.

Mayor Wood asked for any further amendments from Councilmembers. There were none.

Mayor Wood said there is a motion to approve the second reading by Councilmember Diamond with a second by Councilmember Dippolito. It has been amended as is reflected by the public record and he thinks they covered it again. He asked if staff needs any further direction on the content of the motion. Brad Townsend replied no. Mayor Wood asked City Attorney David Davidson if he was comfortable with the motion. Mr. Davidson replied yes. Mayor Wood asked for further discussion. There was none.

For clarification, the following is a summary of the changes discussed during the meeting and included in the 2nd reading of the UDC.

Motion – second reading – UDC - 2/24/14:

Adopt the UDC (2/21/14 second reading draft) effective June 1, 2014 or the adoption of the Design Guidelines whichever is last.

The spreadsheet dated UDC amendments to the 2/21/14 draft;

Height map – UDC #5;

Replacement page - 3-6;

Additional PRD – Nesbit Lakes – pg. 3-49, section 3.5.17;

Appendix “A” additions – Kent’s email dated 2/24/14;

The map spreadsheet shall be attached;

Pg. 2-2 – Cottage Court building type – add a definition of courtyard (done by Lee on 2/24/14;

1221 Riverside Road – change the northern boundary;

Attach the spreadsheet with the map;

Pg. 2-6, section 2.2.7 – remove the picture with the roof top outdoor amenity space;

Pg. 13-33 – add the casualty clause – (done by Lee on 2/24/14);

Pg. 2-16 – front loaded; add text related to the 20’ minimum between garage and sidewalk as demonstrated in the picture;

Pg. 3-6, section 3.1.9 – remove two-family living in an attached house from the intent statement of R-CC;

Pg. 3-29 – Carriage House (lot subdivided after the effective date) – to be “C”;
Pg. 4-23, section 4.3.10, number 3 – building height (reference the UDC map);
Pg. 5-4, section 5.2.2 letter C – change “2 stories” to “1 story”;
Pg. 5-4, section 5.2.3, letter C – delete;
Pg. 9-21, section 9.7.1 B – add number 6 – new language related to “owner occupied”;
Pg. 9-21, section 9.7.2 B – add number 6 – new language related to “owner occupied”;
Pg. 11-3, section 11.2.6 letter D – remove number 3.

Vote: Councilmembers Diamond, Dippolito, Orlans, and Wynn voted in favor. Councilmembers Igleheart and Price were opposed. The motion passed 4:2.

Mayor Wood announced a break at 11:29 p.m. The meeting reconvened at 11:39 p.m.

8. Approval of Text Amendments to the City of Roswell Code of Ordinances required for adoption of the Unified Development Code (UDC) (*Second Reading*)

(This item was deferred at the February 10, 2014 Mayor and Council Meeting)

Councilmember Wynn introduced this item.

Planning and Zoning Director Brad Townsend presented this item stating this cleans up the City Code of Ordinances where there were Zoning Ordinance references through the Unified Development Code (UDC). It deals with Zoning Director, Alcohol, Adult Business and Historic Structures. There also was a section in the current Zoning Ordinance related to Handbills that has been moved into a section here to clarify it is citywide. This also deals with signs, nuisances, and cleaning up a section related to cell towers. Staff recommends approval of the second reading of the proposed ordinance for the adoption.

City Attorney David Davidson conducted the second reading of ***AN ORDINANCE TO AMEND THE CITY OF ROSWELL CODE OF ORDINANCES*** stating: pursuant to their authority, the Mayor & City Council adopt the following changes to the Code of Ordinance for the City of Roswell:

1.

The Code Ordinance of the City of Roswell, Georgia is hereby amended to delete references to the Zoning Ordinance and refer to the Unified Development Code and shall read as follows:

Chapter 2, Code of Ordinances is hereby amended by changes to Sections 2.1.5, and 2.4.6 to read as follows:

Article 2 Administration

(a) Section 2.1.5 - Fees.

Actual administrative costs of the city for certain services provided by the city shall be recouped by the city through user fees. The Mayor and City Council will establish such fees by resolution.

Section 2.4.6 - ZONING Director.

There is hereby created the position of ZONING director who shall assist the director of community development and assume authority for planning, ZONING, development permitting, engineering, code enforcement and business licensing activities in the City of Roswell. The ZONING director shall perform all duties of the office described in the city's personnel manual and those set forth in the Unified Development Code (UDC) of the City of Roswell. In particular the ZONING director shall serve as liaison to each of the city's boards and commissions and shall

make recommendations on behalf of staff in REZONING applications and review of preliminary plats.

Chapter 3, Code of Ordinances is hereby amended by changes to Sections 3.4.1 and 3.7.7 to read as follows:

Section 3.4.1 - ZONING Requirements; Existing Licenses.

- (b) No alcoholic beverage license shall be granted unless the premises to be licensed are located in the NX, CX, SH, CC, PV, CH, OR or IX or Historic Properties Overlay District, or in those certain areas that carry a commercial ZONING classification or are approved for restaurant uses via a special use permit or other ZONING provision of Fulton County, as made applicable by the city. No pouring license shall be granted in the PV except at outlets licensed as restaurants under section 3.7.3 of this article. No package malt beverage license or package wine license shall be granted in the PV except in retail supermarkets having a gross building area of at least thirty thousand (30,000) square feet or in drug stores having a gross building area of at least eight thousand (8,000) square feet or at outlets within two hundred (200) feet of the center line of the Crossville-King-Woodstock intersection (said measurement shall be the shortest possible straight line distance). No package malt beverage license or package wine license shall be granted to a service station in the PV except at service stations meeting all other requirements of law and in which at least ninety (90) percent of the total gross sales are generated by sales other than alcoholic beverages. Any license application shall meet the distance requirements of section 3.4.2 of this article.

Article 3.7 Requirements for Consumption On-Premises Licenses

Section 3.7.7 - Special Events Facility.

In order to be eligible for a consumption on the premises license, a special events facility must:

- (a) Be available to public or private groups of persons;
- (b) For monetary consideration on a rental, fee, percentage, or similar basis, be used primarily for special occasions, including but not limited to, receptions, meetings, banquets, conventions, parties, catered events, or similar gatherings; and
- (c) Be open to or attended by invited or selected guests or paying patrons; or
- (d) Be a multi-sport complex situated on at least twenty (20) acres in the DX district.

Chapter 4, Code of Ordinances is hereby amended by changes to Section 4.1.7 to read as follows:

Article 4.1 Adult Business - General

Section 4.1.7 - Location.

No adult business shall be located:

- (a) Within one hundred (100) yards of any parcel of land which is either zoned or used for residential uses or purposes; and
- (b) Within one hundred (100) yards of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located; and
- (c) Within five hundred (500) yards of any parcel of land upon which another establishment regulated or defined hereunder is located; and
- (d) Within one hundred (100) yards of any parcel of land upon which any establishment selling alcoholic beverages is located; and

- (e) On less than one (1) acre of land containing at least one hundred fifty (150) feet of road frontage; and
- (f) In any district other than one that is zoned for and meets all requirements of; IX or IL and
- (g) In any building which has within the past eighteen (18) months been used for purposes of or in the commission of solicitation, prostitution, or other illicit acts.

For the purposes of this section, distance shall be from property line to property line along the shortest possible straight-line distance, regardless of any customary or common route or path of travel, i.e. "as the crow flies." The term "parcel of land" means any quantity of land capable of being described by location and boundary.

Chapter 5, Code of Ordinances is hereby amended by changes to Section 5.3.6 to read as follows:

Article 5.3 - Building and Technical Codes

Section 5.3.6 - Same—Historic Structures.

In addition to those provisions contained within the Standard Building Code, the following restrictions shall govern moving, demolition, or alteration of historic structures and shall be considered an amendment to section 101.5 of the Standard Building Code:

No structure of any type may be moved into a historic district until the provisions of Unified Development Code (UDC) Section 13.7, 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 Unified Development Code_(UDC) Section 13.7 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 inspector or his representative before the structure and/or building is moved into the city.

Chapter 7, Code of Ordinances is hereby amended by changes to Section 7.3.4 to read as follows:

Section 7.3.4 - Minimum requirements for Erosion, Sedimentation and Pollution Control Using Best Management Practices.

17. REZONING plans and development plans must conform to topography and soil type so as to create the lowest practical erosion potential. No rezoning application shall be considered and no land-disturbing activities shall occur on any slope in excess of twenty-five (25) percent within five hundred (500) feet of any state waters or stream identified on the Water Resources Protection Map, latest version, without the submittal of a Steep Slope and Erodible Soils Evaluation. For purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams that based on a field evaluation do not have a discernible flow at the time of the evaluation. Field evaluations shall not be made within forty-eight (48) hours of any rainfall event of 0.10 inches or greater or within seven (7) days of any rainfall event of 0.5 inches or greater. The rainfall measurement shall be based on the City of Roswell rainfall gauge closest to the site.

This section shall be in addition to other buffer requirements and shall not exempt any sites from any other requirements of The City of Roswell. This section shall also apply to filling activities that occur within five hundred (500) feet of a "state waters" or included streams, as defined herein, when any part of that fill slope exceeds twenty-five (25) percent.

This section shall not apply to projects with a total site area of less than one (1) acre.

The steep slopes and erodible soils evaluation shall consist of the following:

- a. This section shall be in addition to other buffer requirements and shall not exempt any sites from the other requirements of this article or Unified Development Code (UDC).

No application for a development permit shall be approved and no permit shall be issued for any land-disturbing activity inconsistent with this section, unless:

(a) The city engineer, or in his or her absence the ZONING director, after consulting with the director of public works/environmental, or his or her designee authorizes land disturbance for the construction of: a stream crossing by a drive-way, transportation route, or utility line parallel to a stream but not closer than twenty-five (25) feet from a stream bank unless due to natural conditions in an area, such construction would be less harmful to the environment than if it were located outside the protection area; or

(f) The city engineer, or in his or her absence the ZONING director, after consulting with the director of public works/environmental or his or her designee authorizes an exception to these rules to allow construction of a detention, retention or sediment control pond, facility or storm drainage structure within a required buffer, setback or protection area where it is deemed to be in the best interest of the water resources system.

Chapter 7, Code of Ordinances is hereby amended by changes to Section 7.3.5 to read as follows:

Section 7.3.5 - Application/Permit process.

A. General. The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the storm water management ordinance, Unified Development Code (UDC), flood damage prevention ordinance, this article, and any other ordinances, rules, regulations or permits, which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

Chapter 8, Code of Ordinances is hereby amended by changes to Section 8.1.7 to read as follows:

Section 8.1.7 - Kennels; Permits.

Where there are four (4) or more domestic dogs, each over the age of four (4) months, kept, maintained or harbored on an appropriately zoned premises, the premises shall be deemed to constitute a kennel; and every kennel shall be subject to regulation and inspection by the health officer. Three (3) domestic dogs or less, not including their issue, shall be allowed in every Unified Development Code (UDC) district. A premises occupied by more than three (3) domestic dogs shall fall into one (1) of two (2) categories. These categories are hobby kennels or commercial kennels. Hobby kennels may only be allowed in the RS-87 and RS-30 (single-family residential) with a minimum of two (2) acres and a maximum of ten (10) domestic dogs, not including their issue. Hobby kennels shall be restricted to casual sale. Commercial kennels shall

only be allowed in the NX, CX, SH, CC, PV, CH, DX, DH, OR and IX; outdoor animal care shall a conditional use in IX. Commercial sales may be allowed within a commercial kennel.

The Code Ordinance of the City of Roswell, Georgia is hereby amended to add the HANDBILL DISTRIBUTION Section for the Zoning Ordinance in its entirety by creating Article 8.9 shall read as follows:

HANDBILL DISTRIBUTION

Chapter 8.9.1 Purpose

Chapter 8.9.2 Definitions

Chapter 8.9.3 Inhabited Private Premises—Depositing Handbills; Insignia

Chapter 8.9.4 Scattering Prohibited; Manner of Depositing Handbills

Chapter 8.9.5 Prohibitions; Public Places; Vacant Premises; Vehicles; Exemptions

Chapter 8.9.6 Lampposts, Public Utility Poles, Trees, Public Structures

Chapter 8.9.7 Violation

Chapter 8.9.8 Penalties

CHAPTER 8.9.1 PURPOSE

Insofar as unsolicited handbills and flyers are constantly left on private premises and vehicles in public places, there is a problem with litter as such handbills are oftentimes blown into the streets and onto lawns and not retrieved. In addition to the litter problem created by handbill distribution, an accumulation of handbills is a signal to burglars or vandals that the residence is unoccupied. To that end, this article will set out guidelines for distribution of unsolicited handbills.

CHAPTER 8.9.2 DEFINITIONS

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein: Handbill: Any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, flyer or any other printed or otherwise reproduced original or copies of any matter of literature which:

- (1) Advertises for sale any merchandise, product, commodity, service, business, opportunity or thing; or
- (2) Directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged or a collection is taken; or
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

Private premises: Any dwelling house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Public place: Any street, sidewalk, boulevard, alley or other public way and any public park, square, space, ground or building.

Vehicle: Every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

CHAPTER 8.9.3 INHABITED PRIVATE PREMISES—DEPOSITING HANDBILLS; INSIGNIA

No person shall throw, deposit or distribute any handbill upon any inhabited private premises if the mailbox is specifically marked with the identifying insignia (City of Roswell green sticker) which signifies the occupant does not wish to receive handbills. The identifying insignia is to be posted on the bottom right corner of the mailbox door. The insignia will be green, state HANDBILLS with the universal insignia for no superimposed over "HANDBILLS," and identify the enforcing ordinance, to wit:

CHAPTER 8.9.4 SCATTERING PROHIBITED; MANNER OF DEPOSITING HANDBILLS

Unless inhabited private premises are posted, as provided in section 2300.2, or unless requested by anyone upon such premises not to do so, the person distributing the handbills may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is placed or deposited in a manner reasonably designed to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

CHAPTER 8.9.5 PROHIBITIONS; PUBLIC PLACES; VACANT PREMISES; VEHICLES; EXEMPTIONS

(a) No person shall throw, post or deposit any handbill in or upon any sidewalk, street or other public place within the city, nor shall any person hand out or distribute or sell any handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to receive it.

(b) No person shall throw, post or deposit any handbill in or upon any private premises which are vacant and which could be reasonably ascertained to be vacant.

(c) No person shall throw, post or deposit any handbill in or upon any vehicle; provided, however that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receivers thereof, a handbill to any occupant of a vehicle who is willing to accept it.

(d) Handbills for political, charitable and other nonprofit purposes are exempt from this article; however, if a newspaper is directly notified that a citizen does not wish to receive it, such request must be honored, or further distribution will be considered a violation of this article.

CHAPTER 8.9.6 LAMPPOSTS, PUBLIC UTILITY POLES, TREES, PUBLIC STRUCTURES

No person shall post or affix any handbill, notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole, tree, or upon any public structure or building, except as may be authorized or required by law.

CHAPTER 8.9.7 VIOLATION

(a) If any handbill is found on any public or private premises or vehicle in violation of this article, it shall be a rebuttable presumption that the person or persons whose name(s), address(es) or telephone number(s) appear thereon has violated this article.

(b) The person who throws or deposits such handbills may also be charged with a violation of this article.

CHAPTER 8.9.8 PENALTIES

- (a) Anyone convicted of violating this article shall be guilty of a misdemeanor and subject to the penalties set forth in section 1.1.3 of the Code of Ordinances.
- (b) Any continuing violation of this article resulting in the unlawful littering of the streets or sidewalks of the City of Roswell shall be deemed a nuisance and on conviction thereof by the Municipal Court of Roswell, the mayor and council may revoke the business license of the violator.
- (c) Each day a violation occurs shall constitute a separate offense. Each location at which a violation occurs shall constitute a separate offense.

Chapter 10, Code of Ordinances is hereby amended by changes to Section 10.4.11 to read as follows:

Section 10.4.11 - ZONING and Change of Location.

- (a) All applications shall contain the address of the premises upon which the business is conducted and the Unified Development Code (UDC) and planning classification of the premises.

Chapter 13, Code of Ordinances is hereby amended by changes to Section 13.4.11 to read as follows:

Section 13.4.11 - Signs.

It shall be unlawful for any person hired by an owner of any private property, or his agent or employee, located within the territorial limits of the city to install or attach to any vehicle a vehicle immobilization device(s), boot(s), or other instrument(s) that is/are designed to, or have the effect of, restricting the normal movement of such vehicle or by any other means whatsoever to restrict the normal movement of such vehicle, unless the owner of the property, or his agent or employee, has complied with all applicable city Unified Development Code (UDC) regarding the posting of signs and the following requirements:

- (1) Signs shall be located at each designated entrance to a parking lot or parking area where parking prohibitions are to be effective. Where there is no designated entrance, such signs shall be erected so as to be clearly visible from each and every parking space. Any such sign or signs to be erected upon historic property as defined in the shall be located as approved by the Historic Preservation Commission

Chapter 14, Code of Ordinances is hereby amended by changes to Sections 14.3.3 and 14.3.12 to read as follows:

Section 14.3.3 - ZONING Requirements.

Special event permits are available for events in the NX, CX, SH, CC, PV, OR, OP, IX and IL or Historic Properties Overlay District. Permits for events in residentially zoned districts shall be issued on a limited basis for uses which will not create undue hardship on surrounding residences.

Section 14.3.12 - Other Permits Required.

- (c) Signs. Permits for any signs advertising or relating to such special event shall be in accordance with the Unified Development Code (UDC) Article 10.3 "Signs".

Chapter 19, Code of Ordinances is hereby amended by changes to Sections 19.2.1, 19.3.1, 19.4.1, 19.4.3 and 19.4.5 to read as follows:

Section 19.2.1 - Outline of Procedure for the Subdivider.

(b) Following approval of the preliminary plat the subdivider may submit six (6) copies of the proposed plans and two (2) copies of any required study, i.e. traffic, hydrology, etc., to the community development department for the applicable permits. Plans shall be in accordance with section 19.4.4, provided, however, if a proposed project is for a non-single-family residential development the applicable sections of Article 11.2 of the Unified Development Code_(UDC), must be complied with.

Section 19.3.1 - Design of Utilities and Other Improvements.

(2) All subdivisions shall meet the stormwater requirements of the City of Roswell. When serving more than three (3) lots, detention ponds, retention ponds and water quality features (including all required access easements, landscape strips and fences) shall be located on an individual lot of record where no home can be constructed. This parcel shall be owned and maintained by the homeowners' association or the lots of record being served by this facility. The parcel shall have a minimum twenty-foot wide continuous access to a public or private road in a manner that allows access and maintenance of this parcel. This lot will not be required to meet the normal lot standards for that Unified Development Code (UDC) district.

Section 19.4.1 - Preliminary Plat Specifications.

(15) Current Unified Development Code (UDC) classification and conditions (when applicable).
(20) Street tree plan and demonstrate compliance with tree density requirements as established in Article 10.2 of the Unified Development Code (UDC).

Section 19.4.3 - Submittal of Plans for Utilities and Streets.

Upon approval of the preliminary plat, plans and specifications for the improvements required under the provisions of this chapter shall be submitted, provided, however, if a proposed project is for a non-single-family residential development, or any subdivision within the historic district (including single-family residential) the applicable sections of Article 13, Unified Development Code (UDC) must be complied with.

Section 19.4.5 - Final Plat Specifications.

(1) The engineers or surveyors certificate of accuracy signed by the engineer or surveyor.
CERTIFICATE OF SURVEYOR/ENGINEER

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist or are marked as "Future", and their location, size, type and material are correctly shown; and that all engineering requirements of the "Land Subdivision Ordinance of the City of Roswell" and the requirements of the Unified Development Code (UDC) of the City of Roswell, Georgia" have been fully complied with.

By: Registered Civil Engineer No.

By: Registered Georgia Land Surveyor No.

(E) (b) A subdivider's performance bond, in an amount equal to one hundred twenty-five (125) percent of the cost of the infrastructure improvements not yet in compliance, shall have been filed by the subdivider in the office of the ZONING administrator, said performance bond shall:

(5) Be approved by the ZONING administrator or the city attorney.

Chapter 21, Code of Ordinances is hereby amended by changes to Sections 21.1.18, 21.2.4, 21.2.5 and 21.2.6 to read as follows:

Section 21.1.18 - Protection of Trees.

Trimming of trees and shrubbery within the public right-of-way to prevent contact with grantee's facilities shall be done only in accordance with the standards approved by the city arborist in accordance with the ordinances of the city. Grantee shall comply in all respects with Design Guidelines. Removal or pruning of any tree or shrub or such tree or shrub's roots shall only be done upon issuance of a permit by the arborist. When trees or shrubs in the public right-of-way are damaged as a result of work undertaken by or on behalf of grantee, grantee shall pay the city within thirty (30) days of submission of a statement by the city, the cost of any treatment required to preserve the tree or shrub and/or cost for removal and replacement of the tree or shrub with landscaping of equal value and/or the value of the tree or shrub prior to the damage or removal, as determined by the arborist or other authorized agent of the city.

Section 21.2.4 - General Requirements.

- (1) The scaled site plan shall clearly indicate the location, type and height of the proposed tower or accessory structure to be utilized, on-site land uses and ZONING, adjacent land uses and ZONING including proximity to historic or scenic view corridors, adjacent roadways, proposed means of access, setbacks for property lines, elevation drawings of the proposed tower, accessory structure and any other structures, topography, parking, and other information deemed necessary by council to assess compliance with this ordinance.

Section 21.2.5 - Development Requirements for Towers.

- (a) Towers may be located only in the following ZONING districts subject to the restrictions and standards contained herein:

AG-43, CX, CC, CH, IX, IL or CIV

Wireless transmission facilities in OP, the other districts shall be alternative tower structures only; provided however, towers may be allowed on publicly owned property regardless of Unified Development Code (UDC) district.

- (1) All transmission facilities, except buried portions, shall be set back from all adjoining properties zoned non-residential a distance equal to the underlying setback requirement in the applicable ZONING district.

MAXIMUM TELECOMMUNICATIONS TOWER HEIGHTS

ZONING District

Section 21.2.6 - Approval Process.

(6) Installing any antenna or tower not to exceed the limitations contained in subsection 21.2.5(f) in any area zoned AG-43, CX, CC, CH, OP, IX, IL or CIV and provided accessory structures are located underground, where technically feasible, or shielded to the satisfaction of the design review board.

(b) If the proposed tower or antenna is not included under the above described expedited approval uses, or the application does not on its face satisfy the development standards and other criteria specified herein, then a public hearing before the mayor and council shall be required for the approval of the construction of a wireless transmission facility in all Unified Development Code (UDC) districts. Applicants shall apply for a public hearing through the community development department and pay the required \$500.00 fee at such time. Applications, when complete, shall be placed on the next available agenda of the mayor and council at which Unified Development Code (UDC) matters are considered. At least thirty (30) days prior to any scheduled hearing, the community development department shall cause a sign to be posted on the property and the publication of a public notice in a newspaper of general circulation and notice sent to surrounding property owners as shown on the county tax records within one thousand (1,000) feet of the proposed tower or antenna. Said notice shall state the nature of the application, street location of the proposal and height of the proposed structure.

Before approving an application for an "other use," the governing authority may impose Unified Development Code (UDC) conditions to the extent necessary to buffer or otherwise minimize any adverse effect of the proposed tower on adjoining properties. The factors considered in granting such a permit include those enumerated in sections 21.2.4 and 21.2.5. The mayor and council may waive one (1) or more of these criteria, if, in their discretion doing so will advance the goals of this article as stated in section 21.2.1. Approved applications shall be valid for one (1) year from the date of the approval by the mayor and council.

Chapter 22, Code of Ordinances is hereby amended by changes to Section 22.4.4 to read as follows:

Section 22.4.4 - Declared to be Unlawful and a Nuisance.

(3) Any motor vehicle on property occupied and used for repair, reconditioning and remodeling of motor vehicles in conformance with the Unified Development Code (UDC) of the city.

Chapter 24, Code of Ordinances is hereby amended by changes to Section 24.4.1 to read as follows:

Section 24.4.1 - Definition.

For purposes of this article, the term "multi-family complex" shall have the meaning ascribed in sections 2.1.1, Building Type Descriptions, of the Unified Development Code (UDC). This ordinance shall apply to condominiums and townhomes not presently receiving curbside service.

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

Council Comments:

Councilmember Wynn thanked Councilmember Diamond for all of her hard work and also staff for everything they did to get the UDC passed.

Councilmember Diamond said the best analogy she has heard throughout this process was from a counterpart in another city that said their code was like a bag of hangers and the only way to bring order to it was to pull it all out and examine everything, rearrange it, and put it all back carefully. There has been tremendous effort for the last two years by the staff, professionals, Code Studio, the UDC Committee, Boards and Commissions, and of course the citizens who followed this process and came to the meetings and took time to send comments, concerns and suggestions. She recognized Brad Townsend, Jackie Deibel, and Alice Wakefield. She noted that Ms. Wakefield said before they started this, that it would be a painful process, and it has been slow and painstaking but working with them was far from painful. She said that as of this month she is no longer the liaison of Community Development but will always have the utmost respect for this incredibly hard working operation and exceptional people. Councilmember Diamond thanked all of the Councilmembers for all of their hard work; she noted that Councilmember Dippolito had pulled out his developer/architect skills to help them work through this. Councilmember Diamond stated everyone contributed and it is a better product for that effort.

Public Comments:

Nydia Tisdale, Brookfield Country Club, stated she would complete her prior public comments. She stated that when she requested a copy of the public notice for the meetings regarding the UDC and the Work Sessions she was given a meeting agenda. She said a meeting agenda does not equal a public notice pursuant to Georgia Sunshine Law; they have very similar information however one does not satisfy the requirement of the other. Ms. Tisdale noted that she has filmed UDC meetings and work sessions and has posted them on You Tube.

Mayor Wood invited other public comments; none were made.

Mayor Wood said he would like to add to what Councilmember Diamond had said. He thanked all of the Councilmembers for their contributions to the UDC, even the ones he had not agreed with on every case; clearly everyone contributed and they had all made it a better ordinance.

Councilmember Orlans also recognized Brad Townsend, Jackie Deibel, and Alice Wakefield; he emphasized that they had done a tremendous job and had put a lot of time and effort into this UDC.

Motion: Councilmember Wynn made a motion for **Approval of Text Amendments to the City of Roswell Code of Ordinances required for adoption of the Unified Development Code (UDC) on Second Reading.** Councilmember Diamond seconded. The motion passed unanimously.

Environmental / Public Works Department – Councilmember Rich Dippolito

9. **Approval for the Mayor and/or City Administrator to sign a contract with Layne Heavy Civil, Inc. for construction of the Roswell Water Treatment Plant (WTP) in the amount of \$14,570,391 and an additional \$150,000 in contingency for a total contract amount of \$14,720,391 and approval of Budget Amendment 50743200-02-24-2014 authorizing a transfer from the Stormwater Fund to the Water Fund in the amount of \$50,000 for the Stormwater Fund's share of the construction of displaced operational storage.**

Director of Public Works/Environmental Stuart Moring presented this item stating this is the resulting amount of the contract for construction of the Water Treatment Plant and the associated intake and raw water storage tank. This is the culmination of a long process. The bids came in above the amount of money that was allocated. Along with their City consultants, Jacobs Engineering, they entered into negotiations with the lowest bidder, Layne Heavy Civil, Inc. and were able to make some adjustments in the design plan to bring the dollar amount of construction in the realm of money that is available. The total amount would be \$14,720,391 that would include an additional amount of \$150,000 in contingency that would only be exercised in the event that there are unforeseen issues that need to be dealt with on a short term basis. In essence, the adjustments that have been made from the concept plans that have been seen are a reduction in the size of the operations building. There is a considerable amount of rock on the site underlying the soil therefore the revised design calls for raising the facilities and particularly the filters to minimize the amount of rock excavation that is required. The consequence of raising those facilities means that there will not be total gravity flow throughout the plant so some placement of facilities has been adjusted and a couple of transfer pump stations were added.

A photograph was placed on the overhead and Mr. Moring noted that the intake and raw water storage tank will remain the same. The reason for the supplemental funds from the Stormwater Fund is because of the expansion of some areas. The area adjacent to Dobbs Drive for the water plant will displace some current storage that is used by both water distribution and stormwater therefore; construction of an additional facility is needed. To make the finances work, they will use about \$50,000 from the Stormwater Fund for that construction.

Council Comment:

Councilmember Dippolito said he had two questions at Committee pertaining to this approval. The first is the cost of demolition of the existing plant and how that will be funded since that is not in this number. The second question is because the decant tanks and adjacent pump building are going to stay, what will be done to make sure these items do not disrupt the park.

Mr. Moring said he would address the second question first. He pointed out the locations of the decant basins and existing plant on the photograph and said those basins will remain. The original design included an equalization tank (he pointed it out on the photograph) on the western side of the property but that was problematic in terms of the extensive piping and so forth. The consultants working with the contractor determined that the decant basins would work well for that function and make use of the existing pump station to direct the decanted water. The bottom flow will be discharged to the sanitary sewer at Fulton County. The water on the top will be pumped back into the front end of the plant and recirculated. Therefore, those facilities will be there and are circular tanks that sit on a slope. The upper side of the tanks is about at ground level. If that is used as a public gathering area, there would need to be some pedestrian protection but it would not otherwise impact any activity that would take place on that bluff.

Mr. Moring then addressed Councilmember Dippolito's first question regarding demolition cost and said the estimate on the demolition work was \$100,000. The revised construction schedule was displayed on the overhead; Mr. Moring said the construction period is about 18 months which would mean that in October of 2015, they would expect the plant to be operational. There would then be about a one year shake down period to make sure everything is functioning and providing suitable quality water and so forth. Then in the later part of 2016, they would be in a position to undertake demolition at whatever time to accommodate whatever facilities were available. He emphasized that the project will not include construction of additional park or

recreational facilities. The demolition would be undertaken using Water Fund fund balance which he said Keith Lee reported on earlier in this meeting.

Councilmember Dippolito said that answered his question about how the demolition will be funded and he was fine with that but he was still unclear as to the impact of the decant basins and the pump building. He said they have gone to great lengths to preserve at least a passive park area and his preference would be to spend a little time...[he did not complete the comment].

Mr. Moring said they have considered some options and he would not say this is the answer but there is a possibility of a trail that would lead from the bluff area to the east that would join a trail that runs down along the slope over to the intersection of Dobbs and Oxbo Roads and ultimately lead to the bridge across Big Creek to the park property or upstream to Waller Park. He referred to a drawing on the overhead and said it is a conceptual drawing of one possibility but it is not part of the plan.

Mayor Wood said this is a conceptual drawing for a recreational use. Mr. Moring said it is one possibility but it is not incorporated.

Mayor Wood said they are asking a public works person a question regarding a recreational plan and for the long term recreational plans for this but that question would be best addressed to the Recreation and Parks Department. He said Public Works could look at where the tanks could be moved in the future however they should not be asking them how these tanks would affect a potential use of a park that has not yet been designed because that is outside their scope of expertise.

Mr. Moring displayed an architectural rendering on the overhead; he noted that the covers that are shown are conceptual and the tanks are not covered at this time. He said this might be a location for an observation point but as the Mayor noted, this is not their area of expertise and they are very cautious in sharing these possibilities, understanding that they are not part of the project.

Councilmember Dippolito asked if there is an idea of the cost to put covers on the tanks.

Mayor Wood said there is a long term possibility to convert this area to a recreational use but currently there are not any plans. He said this is a good question but premature in the sense that there are not currently any plans for this park. There are two possibilities when they come forward with a recreational plan for this property; one would be to move the tanks at a later time to another location at an additional cost, and another would be to design the park around them. But the question goes beyond the scope of what has been studied. The issue was that they had cost overruns and needed to know how to bring that within budget and the only way to bring it within budget was to not spend money to demolish the tanks and rebuild them but use them in their current location. If they are talking about what to do in the future to develop this area into a park, they will need to address that in the future or hold up the entire project until they come forward with a plan for a park which they do not have money for or a current need for.

Councilmember Dippolito said he agreed with Mayor Wood to a point but this project was approved based on these tanks or the pump station not being here. He said as he mentioned before, they went to great lengths to not have them there so there could be more of a bluff and a greenspace and at least a passive park for the community. The other plan was approved based on a cost given by the consultants that turned out inaccurate so now there are cost overruns and they

are being asked to sacrifice the greenspace to make those changes. He said it is very relevant because the original approval was based on the prior plan at a certain cost but we are no longer there, we are somewhere else.

Mayor Wood said it is relevant but his position is that as much as he loves greenspace, drinking water is more important. He said we have greenspace; we are not losing all of the greenspace, only a portion of it. He understands it is relevant to Council but if they are going to move forward with this plant, they will either need to come up with a lot more money for a potential park that is not on the agenda or they can approve this as is and move it forward. He said he is in support of moving forward as is.

Councilmember Igleheart said he had been sidetracked with the UDC and had taken his eye off this ball and was frustrated with himself about that. He said he understands the cost side of it but said ultimately there might be something that could be built over it. He asked if a cover could be put on it, could they not put a view point over it. He said there could be public art on the concrete and this could be the first public art project. He agreed with the Mayor's point as well that they need to get this moving forward and said, "We spent so much time and effort and then so much going to not do this; I'm this close to just saying no." He asked if the cost is \$100,000 for the demolition or what is the total cost for all of the elements.

Mr. Moring said that is the estimated cost for the demolition. It does not encompass any of the work relative to the future park area.

Councilmember Dippolito said for clarification, the demolition is for the existing water plant, not for these components. He said to Councilmember Igleheart, these tanks would stay and so would the pump station. Those are not being demolished, it is the existing plant.

Councilmember Igleheart said he understands that but the only way they would not be there is if they are demolished or moved. He said part of the plan at one point was these were not intended to stay.

Mr. Moring said that is correct, the equalization tank was on the western part of the property...[he did not complete the comment].

Mayor Wood said for the purpose of illustration, if they go back to the original plan and not move these, how much this would add to the project.

Mr. Moring said, "I don't think that we specifically cost out that tank; we just said we can save some money by eliminating that."

Mayor Wood asked for a ballpark amount of how much they are saving.

Mr. Moring replied that they did not discuss that but he would go out on a limb and say approximately \$300,000-\$400,000 for that particular element. However, there was also some piping to get to that place from the site of the clear well and eliminating that piping would eliminate all the rock excavation that goes with that.

Mayor Wood said \$400,000 plus is a substantial number. Mr. Moring replied yes.

Councilmember Igleheart said they used to stand on the ones that had covers and actually had a good view but they would not want the public doing that and asked if there was a cover over the tank, could something be built over it where people could stand or would that cause an operational problem.

Mr. Moring said he thought it could be designed to be functional that way but he did not know if it needed to be open air or in other words would the cover need to have a gap between the top of the concrete and the rim of the tank itself. Councilmember Igleheart asked, so a deck could be on top. Mr. Moring said yes, a hard stand with picnic tables or an observation port or something of that nature.

Councilmember Igleheart said that would probably be a reasonable compromise.

Mayor Wood told Councilmember Igleheart that he thought it was a reasonable compromise but he was hesitant to put a cover on them before they have the new park designs because the solution might be a cover or it might be landscaping or there might be a great project there and they need to move the tanks.

Councilmember Igleheart said he could concede and go ahead if that is a possible alternative but if they say there is no way to do that and they have to be exposed, he would feel differently.

Mr. Moring said he would give the standard engineering response “if you’ve got the money and the time, we can build it.”

Councilmember Igleheart said it seems rational that could work and perhaps they will all get what they hoped for but just a little different.

Councilmember Dippolito said it appeared from the rendering that Mr. Moring had shown that there is no requirement to have fencing around this such as the chain link fencing they had talked about earlier in the evening. He asked if people can be close to these tanks or do they need to be isolated. He asked if there can be landscaping around them. Mr. Moring said absolutely. Councilmember Dippolito asked if they will need truck access. Mr. Moring said he did not see a need for truck access to the tanks but they would probably need to have a pathway to get to it using equipment but not like a dump truck or something of that nature. He said he did not know all the ins and outs of ADA requirements or general pedestrian requirements but a chain link fence would not be a part of that process. Councilmember Dippolito said, “You are on record now, you realize?” Mr. Moring replied yes, and said absolutely the potential for vegetative screening will be exercised fully. Councilmember Dippolito thanked Mr. Moring.

Mayor Wood called for a motion.

Motion: Councilmember Dippolito made a motion for **Approval for the Mayor and/or City Administrator to sign a contract with Layne Heavy Civil, Inc. for construction of the Roswell Water Treatment Plant (WTP) in the amount of \$14,570,391 and an additional \$150,000 in contingency for a total contract amount of \$14,720,391 and approval of Budget Amendment 50743200-02-24-2014 authorizing a transfer from the Stormwater Fund to the Water Fund in the amount of \$50,000 for the Stormwater Fund's share of the construction of displaced operational storage with the ultimate goal of being able to incorporate these items into a park like setting.** Councilmember Wynn seconded.

Public Comment:

Lee Fleck asked if he heard the motion correctly that it does not include the approval of the budget amendment to transfer funds from the Stormwater Fund to the Water Fund.

Councilmember Dippolito said it does include it.

Mr. Fleck said the Stormwater Fund comes from funds from impervious fees paid by property owners, businesses, churches, and the most significant portion is roadways. That is a separate fund and yet the Water Fund is an Enterprise Fund which by state law must be self-funded and therefore, they are basically breaching the possibility of an injunction because they would be violating state law. He said he has warned Council about that on a couple of occasions and said be advised accordingly.

No further public comments. The public hearing was closed.

Mayor Wood asked Mr. Moring to explain the justification behind \$50,000 being transferred from the Stormwater Fund.

Mr. Moring said that money is for the operation of the stormwater program and providing facilities for that program. Mayor Wood asked what facilities would be provided for stormwater. Mr. Moring replied, the storage yard for equipment and materials that would be displaced as a consequence of this construction. Mayor Wood said for stormwater needs, it would be an equipment yard. Mr. Moring said that is correct.

There was no further Council discussion.

Vote: The motion passed unanimously.

10. Approval of a Resolution to authorize execution of all documents for a Georgia Fund loan from the Georgia Environmental Finance Authority (GEFA) in an amount not to exceed \$15,000,000 to finance the construction of the Roswell Water Plant and approval of Budget Amendment 50544300-02-24-14 establishing revenue and expenditure budgets in the amount of \$15,000,000 and appropriating \$150,000 from Water Fund fund balance for Debt Issuance Costs.

Director of Public Works/Environmental Stu Moring presented this item stating the application for the loan from the Georgia Environmental Finance Authority (GEFA) was previously approved by the Mayor and Council. This action essentially facilitates that and it provides for the financial details that will execute that loan and make those funds available for the construction of the water plant. Basically, approval of this item will allow the execution of the previously approved item.

There were no questions from Council. Public comment invited. None were made.

Motion: Councilmember Dippolito made a motion for **Approval of a Resolution to authorize execution of all documents for a Georgia Fund loan from the Georgia Environmental Finance Authority (GEFA) in an amount not to exceed \$15,000,000 to finance the construction of the Roswell Water Plant and approval of Budget Amendment 50544300-02-24-14 establishing revenue and expenditure budgets in the amount of \$15,000,000 and appropriating \$150,000 from Water Fund fund balance for Debt Issuance Costs.** Councilmember Price seconded. The motion passed unanimously.

*****Discussion of Regular Agenda Item # 7 – UDC continued at this point in the meeting at 9:43 p.m.**

City Attorney's Report

11. Approval of an Ordinance to amend the Code of Ordinances of the City of Roswell, Chapter 13, to amend Existing Section 13.1.1 “Disorderly Conduct” and to add new Sections 13.1.4 through 13.1.12. (First Reading)

Councilmember Orlans introduced this item. City Attorney David Davidson conducted the reading of an ***ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ROSWELL CHAPTER 13 TO AMEND EXISTING SECTION 13.1.1, “DISORDERLY CONDUCT,” AND TO ADD NEW SECTIONS 13.1.4 THROUGH 13.1.12*** stating pursuant to their authority, the Mayor and Council do hereby adopt the following ordinance:

1.

Section 13.1.1 of the Roswell Code of Ordinances is hereby amended by deleting in its entirety the current Section 13.1.1 and substituting a new Section 13.1.1 to read as follows:

13.1.1 Disorderly Conduct.

(a) It shall be unlawful for any person to disturb or endanger the public peace or decency by any disorderly conduct.

(b) The following acts, among others, are declared to be disorderly conduct:

- (1) Act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of such person's life limb or health;
- (2) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed;
- (3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
- (4) Assemble or congregate with another or others for the purpose of gaming;
- (5) Be in or about any place, alone or with others, with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing or to aid or abet any person doing so;
- (6) Be in or about any place where gaming or illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs are practiced, allowed or tolerated, for the purpose of or intent to engage in gaming or the purchase, use, possession or consumption of such illegal drugs, narcotics or alcohol;
- (7) Direct fighting words toward another, that is, words which by their very nature tend to incite an immediate breach of the peace;
- (8) Interfere, by acts of physical obstruction, with another's pursuit of a lawful occupation;
- (9) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by a city police officer or other lawful authority;
- (10) Stand or remain in or about any street, sidewalk, overpass, or public way so as to impede the flow of vehicular or pedestrian traffic, and to fail to clear such street, sidewalk, overpass or public way after being ordered to do so by a police officer or other lawful authority;
- (11) Disrupt by actions which tend to cause an immediate breach of the peace the undisturbed activities of any house of worship, hospital, or home for the elderly;
- (12) Throw bottles, paper, cans, glass sticks, stones, missiles, or any other debris on public property;

(13) To publicly expose, post or circulate any lewd, profane or obscene picture, card or printing within the city or

(14) To use profane or obscene language in public.

State law reference - Disorderly conduct, O.C.G.A. § 16-11-39.

2.

Chapter 13 of the Roswell Code of Ordinances is hereby amended to add Sections 13.1.4 through 13.1.12 to read as follows:

13.1.4 Vandalism.

(a) *Public property.* It is unlawful for any person to mar, deface, disfigure, spoil, ruin, damage, or in any way alter the appearance or operation of any public property or park in the city.

(b) *Private property.*

(1) It is unlawful for any person to mar, deface, disfigure, spoil, ruin, damage, or in any way alter the appearance or operation of any private property without the consent of the owner.

(2) This subsection shall not be construed as affecting any remedy the private property owner may have at law.

State law reference - Criminal trespass, O.C.G.A. § 16-7-21.

13.1.5 Panhandling.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Aggressive panhandling means and includes:

(1) Intentionally or recklessly making any physical contact with or touching another person or his vehicle in the course of the solicitation without the person's consent;

(2) Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(3) Continuing to solicit within five feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to Article 18.4 of the Roswell Code of Ordinances shall not constitute obstruction of pedestrian or vehicular traffic;

(5) Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or words intended to, or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(6) Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

Public area means an area to which the public or a substantial group of persons has access including, but not limited to, alleys, bridges, buildings, driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public

Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, including employment, business or contributions or to request the sale of goods or services. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(b) *Prohibitions.* It shall be unlawful for any person, firm, organization, or corporation to aggressively panhandle within any public area in the city or panhandle or solicit funds for the sole benefit of the solicitor:

(1) In any public transportation vehicle, or bus or subway station or stop;

(2) Within 15 feet of any entrance or exit of any bank or check cashing business or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;

(3) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or

(4) From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

(c) *Applicability.* This article regulates the time, place and manner of solicitations and shall not apply to any persons from exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity.

13.1.6 Loitering and prowling.

(a) It shall be unlawful for a person to be in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

(b) Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer failed to comply with the foregoing procedure or if it appears at trial that the explanation given by the person was true and would have dispelled the alarm or immediate concern.

13.1.7 Prostitution.

(a) *Definitions.*

(1) Prostitution. The act or practice of engaging in sexual activity for money or its equivalent. This includes, but is not limited to, acts also known as “sodomy for hire,” and “masturbation for hire.”

(2) Solicit for prostitution. Any person who offers to pay money or the equivalent for another to perform or engage in sexual activity.

(3) Purchase of prostitution. Paying money or its equivalent to another person to perform or to engage in sexual activity.

(4) Sexual activity. The touching of another’s breast, vagina, penis or anus. Both persons (the person touching and the person touched) are said to engage in sexual activity.

(b) It shall be unlawful to engage in prostitution within the city limits.

(c) It shall be unlawful to solicit prostitution or to purchase prostitution within the city limits.

(d) Violation of this Code section shall be punished by a fine not to exceed \$2,000.00 or by 180 days imprisonment, or by both such fine and imprisonment.

State law reference - Similar provisions, O.C.G.A. § 16-6-9 et seq.

13.1.8 Public intoxication.

Any person on the streets, sidewalks or other public places within the corporate limits of the city, who acts in a reckless manner so as to create an unreasonable risk to himself, to others, or to property in the vicinity while under the influence of alcohol or drugs is in violation of this section.

13.1.9 Hindrance of a police officer.

No person shall in any manner oppose or interfere, by acts or menaces, any police officer in the discharge of his official duties, or strike, assault, molest or abuse such officer. *State law reference - Obstruction or hindering of law enforcement officers, OCGA § 16-10-24.*

13.1.10 False representations to police or to any city department, employee or agent.

It shall be unlawful for any person, knowingly and willfully and with intent thereby to mislead, either in such person's own behalf or on behalf of others, as principal or as agent, to make or file, orally or in writing, any false representation of fact to any police officer of the city. It shall be unlawful for any person, knowingly and willfully and with intent thereby to mislead, either in such person's own behalf or on behalf of others, as principal or as agent, to make or file, orally or in writing, any false representation of fact to any department, employee or agent of the city government regarding any application for a permit, license, or any other official city matter.

13.1.11 Loitering for the purpose of using, possessing or selling any controlled substances.

(a) It is unlawful for any person to loiter in a public place in a manner and under circumstances manifesting the purpose of illegally using, possessing or selling any controlled substances as that term is defined in O.C.G.A. § 16-11-36, as now enacted or hereafter amended. Among the circumstance which may be considered in determining whether such a purpose is manifested are:

1. The person is a known illegal user, possessor or seller of controlled substances, or the person is at a location frequented by persons who illegally use, possess, transfer or sell controlled substances; and

2. The person repeatedly beckons to, stops, attempts to stop or engage in conversation with passersby, whether such passersby are on foot or in a motor vehicle, for the purposes of inducing, enticing, soliciting or procuring another to illegally possess, transfer or buy any controlled substances; or

3. The person repeatedly passes to or receives from passersby, whether such passersby are on foot or in a motor vehicle, money, objects or written material for the purpose of inducing,

enticing, soliciting or procuring another to illegally possess, transfer or buy any controlled substance.

(b) In order for there to be a violation of subsection (1), the person's affirmative language or conduct must be such as to demonstrate by its expressed or implied content or appearance a specific intent to induce, entice, solicit or procure another to illegally possess, transfer or buy a controlled substance.

(c) No arrest shall be made for a violation of subsection A. unless the arresting officer first affords the person an opportunity to explain his conduct, and no one shall be convicted of violating subsection (a), if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(d). For the purpose of this section, a "known illegal user, possessor or seller of controlled substances" is a person who, within one year previous to the date of arrest for violation of this section, has, within the knowledge of the arresting officer, been convicted of illegally manufacturing, using, possessing, selling, purchasing or delivering any controlled substance.

(e) Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed \$500.00 per violation or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment.

13.1.12 Petty Trespass.

(a) It is unlawful for any person to enter upon the land or premises of another, or in or upon any vehicle, boat or aircraft owned by another, after having received notice from the owner, lawful occupier, lessee, tenant, or any agent thereof, that entry is forbidden. If requested by the owner, lawful occupier, lessee, tenant, or any agent thereof, of the premises, or vehicle, boat or aircraft, a police officer may give such notice.

(b) After notice as provided in subsection (a) of this Code section has been given, it shall be unlawful for a person to remain upon the land or premises of another, or in or upon any vehicle, boat or aircraft owned by another.

(c) Violation of this Code section shall be punished by a fine not to exceed \$1,000.00 or by 180 days imprisonment, or by both such fine and imprisonment.

Mr. Davidson noted that if approved this would be the first reading. Mr. Davidson noted that under Disorderly Conduct #13 and #14 were added back in after the discussion at Committee.

Motion: Councilmember Orlans moved for **Approval of an Ordinance to amend the Code of Ordinances of the City of Roswell, Chapter 13, to amend Existing Section 13.1.1 "Disorderly Conduct" and to add new Sections 13.1.4 through 13.1.12 on First Reading.** Councilmember Wynn seconded. Public comment invited. There was no public comment.

Council question:

Councilmember Price asked what language was added back into the ordinance. City Attorney David Davidson clarified that it is under Section 1, second page; both #13, and #14, regarding lewd, profane or obscene picture, card or printing within the city, or to use profane or obscene language in public.

Vote: The motion passed unanimously.

12. Recommendation for closure to discuss personnel and real estate.

Mayor Wood cancelled closure due to the late hour.

Adjournment:

After no further business, the Mayor and Council meeting of Monday, February 24, 2014 adjourned at 11:49 p.m.

Date Approved: _____

Marlee Press, City Clerk

Jere Wood, Mayor