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**The Work Session of the Mayor and Council of the City of Milton was held on May 12, 2008 at 6:00 PM, Mayor Joe Lockwood presiding.**

**Councilmembers Present:** Councilmember Julie Zahner Bailey, Councilmember Bill Lusk, Councilmember Tina D'Aversa, Councilmember Alan Tart, Councilmember Karen Thurman, Councilmember Burt Hewitt

**Mayor Lockwood**

- Work Sessions are a more informal setting to update the Council on business items.
- No votes will be taken.
- Public comment is allowed if it is germane to an agenda item.
- Speakers are required to fill out a public comment card and turn it in to the City Clerk.
- Public comment will be allowed for a total of 10 minutes per agenda item, 2 minutes per person.
- Public comment will be heard at the beginning of each item.
- Once the item is called no other public cards will be accepted.

**City Clerk Marchiafava**

- Staff request that item #5 be presented first.

**DISCUSSION ON AMBULANCE SUBSIDY AND CREATION OF THE NORTH FULTON EMERGENCY MEDICAL RESPONSE OVERSIGHT COMMITTEE (EMROC).**

**Public Safety Director Chris Lagerbloom**

- Happy to report that the cities in North Fulton County have worked together.
- We will attack this in a regional approach.
- Our ambulance coverage in all of North Fulton County will be better July 1, 2008.
- With everybody working together our cost will be \$132,250.00.
- We will have to budget for this.
- We are working it into a budget adjustment for the remainder of this fiscal year.
- Would like to acquaint Council with the Emergency Medical Response Oversight Committee (EMROC).
- Will bring before Council the first meeting in June.
- Hopefully we can get this adopted before July 1<sup>st</sup>.
- This will allow our participation in the Emergency Medical Response Oversight Committee.
- We elected to try to have an oversight group that includes all of the regional Cities in one group.
- We would have the same share at the table as every other city in North Fulton County in managing this contract.
- We elected to mirror the by-laws adopted with the Mayor's Association and North Fulton Municipal Association because they have been adopted by each of the cities.
- It names who the members are and what their responsibilities are.
- The important thing is it will give everybody equal share at the table, which we do not have now.
- Council will see two things on June 2<sup>nd</sup>.
- One will be a contract we can enter into with Rural Metro and our hope is that the cities all enter into the same contract as opposed to there being five contracts.
- The second is approval and authorizing Milton to participate along with all of the other Cities of North Fulton in EMROC.

**Mayor Lockwood**

- Asked can our citizens expect at least equal if not better service even though we have to subsidize upgraded service from Rural Metro?

**Public Safety Director Lagerbloom**

- This regional approach will provide our citizens as well as the other citizens of the other four cities with better service than we have today.

**Mayor Lockwood**

- Just wanted to let everyone know that our citizens will gain from this cost.

**Councilmember D'Aversa**

- Why is it better to enter into one contract as opposed to individual contracts?

**Public Safety Director Lagerbloom**

- In the end it is just easier with this EMROC if we can manage one contract as opposed to each of us managing our own.

**Councilmember Zahner Bailey**

- What if Milton has something happen and the performance is not being met?
- Would hope that we would have individual approaches for how to deal with that, versus what might be happening in Sandy Springs because we have more acreage, etcetera.

**Public Safety Director Lagerbloom**

- The contract will be the four cities.
- Sandy Springs will have the same contract but they have their own because they have elected to put more ambulances in their city, so they will have a much larger expense.
- The way the performance is designed (which is where Milton gets an equitable share of that oversight) is; the oversight will be through EMROC and we will have a seat at that table.
- If we have something that is Milton specific we will have the opportunity to address that.

**City Clerk Marchiafava** read agenda item #1.

**DISCUSSION AND UPDATE ON THE MILTON TRAIL**

**Dr. Brian Maloney, Chair, Bicycle and Pedestrian Committee**

- Happy to present some of our accomplishments over the last year.

*(Power Point Presentation)*

**Milton Bicycle and Pedestrian Path Committee**

Brian Maloney – Committee Chair  
Bill Schellhorn  
Allan Tetley  
David Shepherd  
Mary Williams  
Douglas Kolesar  
Travis Allen  
Lisa Cherry

- Resolution July 12, 2007 accepted the recommendations of the Bike Ped Committee for the Milton Trail Plan
- Trail to be a condition of new development
- Since March 2008 Committee has developed trail details
  - Side of the road location

- Edge of pavement type (cross section)
- Material type

#### **Trail Details – Side of the Road Location**

- Based on Terrain
- Utility Locations
- Other obstructions
- Community Facilities
- Equestrian Facilities
- 2025 Future Land Use Plan
- State Routes and Urban Areas Use Both Sides of the Road

#### **Trail Details – Edge of Pavement Type (Cross Section)**

- Rural – Gravel or Asphalt
- Modified Rural – Gravel or Asphalt
- Urban - Concrete
- Urban Residential - Concrete
- Urban Bike - Concrete
- Gravel Road - Gravel
- Off-Road – Gravel or Asphalt

#### **Comments From Design Review Board**

- Materials to be organic natural colors
- Concrete to be stamped at intersections and transition segments
  - Possibly use Milton Horse logo as stamp
- All fencing to be 4 board black equestrian style fence
- Signage to be consistent with overlay requirements
  - City of Milton horse logo
- No landscaping included

#### **Items to Consider for Inclusion in Trail Plan**

- Side of road location of trail according to approved map
- New developments will grade to the approved cross section for the segment of trail
- Retrofit trail construction will use cross section where possible
- New developments will dedicate Right of Way for trail
- Trail is preferred to be within the Right of Way, Easements will be used if it is not possible to have dedicated Right of Way
- New developments will construct trail along entire frontage
- Bridges shall not be required by development
- Trail shall not meander unless to avoid trees or other obstructions
- Trail shall avoid trees whenever possible
- Fence required along trail either:
  - Within the Right of Way/Easement between the trail and roadway
  - Outside Right of Way/Easement on private property
- Provide decorative fence feature at intersections
- Fence to be 4 black board equestrian style fence
- Promote traffic abatement measures on Gravel Roads

#### **Next Actions Bike Ped Committee**

- Material specifics research
- Cost analysis and Funding

- Set up test segment for gravel products
- Visit other local trail systems

#### **Next Actions City Council**

- Review Trail Details
- Review items for Milton Trail Detail Resolution
- Present Resolution at June 2, 2008 City Council meeting

#### **(Discussion)**

**Mayor Lockwood** thanked Dr. Maloney and the rest of the committee members for all of the hard work they have done.

**Councilmember Lusk** asked if this would be ADA (American with Disabilities Act) compliant.

#### **Dr. Brian Maloney**

- Because of slopes and those types of thing it may not be ADA compliant, but choosing a surface that could be used by someone in a wheel chair or stroller is more desirable.
- Our thoughts are to basically prepare that base so if we need to asphalt later, because of excessive wear and tear, we would have that flexibility.

#### **Public Works Director Dan Drake**

- We need to double check that we do or do not need to be ADA compliant with all of the sidewalks within the right of way.
- If we do need to be ADA compliant then we have the materials, if not then we will have that option of some areas to not be ADA compliant.
- A lot of these gravel trails can be ADA compliant but we are concerned about horses possibly digging them up enough so they do not remain ADA compliant.

**Councilmember Lusk** stated he was thinking more along the lines of slopes rather than material.

#### **Dr. Maloney**

- Informed by staff that when a trail runs adjacent to a roadway, the slope is immaterial.

#### **Councilmember Thurman**

- Asked if the Resolution will have everything it needs in order to go forth with possible grant funding.

#### **Dr. Maloney**

- That is the goal of the committee.
- We have a subcommittee set up on funding and they are already working on that.

#### **Councilmember Zahner Bailey**

- As the Birmingham Park develops it will be an extension of the trail system.
- As it relate to Summit Hill Elementary, there is a current effort by that Principal to involve a trail system at the front of the school.
- Suggested they get in touch with the Bike and Pedestrian Committee in regards to materials and process.
- Hopes before things are finalized that we would be mindful of the signage and look at different alternatives.
- Hopes that any signage that we create as a City is in keeping with our own Ordinance and that we are looking at materials that are non metal.

**Mayor Lockwood** thanked Dr. Maloney as well as the entire committee.

**City Clerk Marchiafava** read agenda item #2.

**DISCUSSION AND UPDATE ON THE PAVEMENT MANAGEMENT PLAN**

**Public Works Director Dan Drake**

- Will be taking a look at the pavement management approach over the next five years and focusing specifically on fiscal year 2008.

**(Power Point Presentation)**

- System extent and existing conditions
- FY 08 budget and paving program
- Next actions
- Questions

**FY 08 Pavement Maintenance Capital Budget**

<b>Pavement (Local and Arterial/Collectors)</b>	<b>\$635,000</b>	<b>64%</b>
<b>Gravel Roads</b>	<b>\$158,000</b>	<b>16%</b>
<b>Priority Maintenance</b>	<b>\$127,000</b>	<b>13%</b>
<b>Striping</b>	<b>\$50,000</b>	<b>5%</b>
<b>Landrum Rd Bridge Design</b>	<b>\$20,000</b>	<b>2%</b>
<b>Total</b>	<b>\$990,000</b>	<b>100%</b>

**FY 08 Paving: \$635,000**

- Local: 8 segments totaling 1.96 miles
- Collectors/Arterials: 2 segments of patching on Thompson totaling 5.7 miles, as preparation for the 1.9 miles LARP overlay
- Includes construction inspection, project management, and contingency

**FY 08 Gravel Roads: \$158,000**

- 8 segments totaling 5.4 miles
- Improvements:
  - Major re-shaping (new crown)
  - New gravel added
  - Clean-out and reshape ditches
  - Cut back growth and cut grass
  - Clean-out drainage pipes
  - Dust abatement
- Includes construction inspection, project management, and contingency

**Priority Maintenance: \$127,000**

- Edge of Pavement failures
- Treyburn Run sidewalk and culvert failure
- Larger potholes
- Other maintenance items

**Other FY 08 Projects: \$70,000**

- Striping: \$50,000 for re-striping faded long-lines: paint (lasts up to 2 years) and thermoplastic (up to 8 years)
- Landrum Road Bridge Design: \$20,000 for FY 09 bridge replacement project

**FY 09-12 Arterial/Collectors Paving**

- Spend the next pavement dollars and LARP submittals on arterials/collectors
- Priority Full-Depth Reclamation:
  1. Morris Road (2.0 miles)
  2. Hickory Flat (1.3 miles)
  3. Birmingham Road (2.7 miles)
  4. South Thompson Rd (3.8 miles: resurface only)
  5. Dinsmore Rd (1.7 miles)
  6. Freemanville (Mayfield to Providence; 1.8 miles)
  7. New Bullpen Rd (1.6 miles)

**Next actions**

1. Put projects out to bid (May)
2. Quality control the PCI process and re-run the alternatives (May-June)
3. Prepare FY 09-13 programs: Local pavement, Arterial/Collector pavement, gravel roads, bridges, sidewalks/Milton Trail, expansion/intersection, NPDES/stormwater for FY 09 budget process (July)
4. Award contract on FY 08 construction projects (July)
5. Construction period for FY 08 projects (July-September)

**(Discussion)**

**Councilmember Zahner Bailey**

- What percentage of the \$158,000.00 is project management?

**Public Works Director Drake**

- There is approximately 15 to 20 % for all three. We have not broken it down between inspection, management and contingency.

**Councilmember Zahner Bailey**

- Asked within that \$635,000.00 approximately 20% of that total cost is project management?

**Public Works Director Drake**

- Along with inspection and contingency, all three items.

**City Manager Billy Beckett**

- What percentage of those gravel roads are descriptive easement as opposed to dedicated right of way?

**Public Works Director Drake** stated he did not happen to know that and continued with the presentation.

- The last pavement piece is what we are calling priority maintenance allocating \$127,000.00 for edge of pavement failure.
- This is becoming more and more prominent throughout the city.
- As the rains start coming back we are seeing major drop offs which are caused by a couple of reasons, the roads have been repaved and there is no support under the roads so they all start falling off.
- We will be using some of the funds for a failure of a culvert and a sidewalk, and some larger potholes.

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- Finally the last \$70,000.00 will be for striping and the Landrum Road Bridge design.
  - The \$50,000.00 for striping is for re-striping faded lines.
  - We will be using both paint and thermal plastic.
  - The paint last up to two years and the thermal last up to eight years.
  - We thought we would have to shut the Landrum Road Bridge but they were actually able to down grade the rating from a five tons to three tons for the posting.
  - That \$20,000.00 is for the design for the replacement of the bridge.
  - We will look into the budget for fiscal year 09 for that bridge.
  - We think the cost will be in the \$200,000.00 range for the replacement for that bridge.
  - The bridge will not be fixed it will be replaced.
  - Talk about the other four years in our five years Capitol Improvement Program.
  - Arterials and collectors paving and local roads paving.
  - Next year we would like to spend the greater share of whatever funds we get under the same line item on the arterials and collectors.
  - Number one is Morris Road; it will need full depth reclamation.
  - Substantial increase over the next four years with the price of oil and escalation.
  - We are showing three roads for next year.
  - Next actions; based on any input we get from Council is that we are going to put the projects out to bid for the paving over the next few weeks.
  - We have some quality control of the PCI work that we have done.
  - Our Public Works program piece for the Capitol Improvement Program for the fiscal year 09 budget process and the programs that we are laying out; there are local pavement our arterial collector pavement, gravel roads.
  - This year we have a bridge and inventory that will be done this summer that will help us feed into the bridges piece.
  - There are no funds for sidewalks and the Milton Trail.
  - There is a sidewalk fund but that maybe for other purposes.
  - The expansion and intersection programs are two high priorities.
  - We will be looking at expansion intersections (Providence, Birmingham and New Providence and Highway 140) within the next five years.
  - There will be substantial expenses with NPDS storm water over the next five years.
  - Also in July we will be awarding the contract we put out to bid.
  - Construction for those projects will be July through September on the nine mile of road ways we discussed.

**Councilmember Lusk**

- How frequently do the roads get evaluated?

**Public Works Director Drake**

- The best case would be every three years but probably is more towards five years.
- We will probably do the gravel roads on an annual basis because they change so much quicker and they require much more maintenance than the paved roads.

**Councilmember Thurman**

- How long does a typical road last?
- It looks like we are doing about five miles of roads a year and we have approximately two hundred miles of roads.
- Are we getting further and further behind?

**Public Works Director Drake**

- Yes, we are getting further and further behind, substantially further and further behind.
- It is a continual process.
- For example; You have a curve and every time that you improve it whether you improve it by just filling in the pot hole or the crack seal; or you could do an overlay or full depth, so you just want to push back to that curve and get up to about fifteen or twenty years away.

**Councilmember Thurman**

- It looks like (in the best case scenario) we are getting a lot further behind each year.

**Public Works Director Drake**

- That is correct.
- On the pavement side, we think we need one to two million dollars per year and that was from a year and half ago when we did the evaluation so maybe we need more than that.
- We have seen our roads fall drastically in the last four to six months.

**Councilmember Thurman**

- Does the one or two million a year include any bridges or gravel roads?

**Public Works Director Drake**

- That is correct and it does not include any priority maintenance.

**Councilmember Thurman**

- And it does not account for the fact that we are starting off in a hole, so we are not even playing catch up and are actually going backwards a little bit with whatever amount of money we put into it this year.

**Public Works Director Drake**

- It is substantially under funded.

**Mayor Lockwood**

- If we took our entire City budget, we still would not be able to bring them up to the 70% range.

**Councilmember Zahner Bailey**

- For comparative purposes, unfortunately that is a situation that most jurisdictions find themselves in.
- Do you have a sense of whether or not that is pretty standard?

**Public Works Director Drake**

- Benchmark is one of the things he has not done.
- Benchmark is your dollars available and your center line miles to be maintained.
- Then if you can even get it, what the rating of your center line miles are.
- Then we can compare ourselves to Johns Creek or Sandy Springs and Alpharetta and Roswell.

**Councilmember Zahner Bailey**

- That may be a whole different process.
- We would love to go out and pave all of those roads but that may not be a realistic expectation.

**Public Works Director Drake**

- Based on his anecdotal discussion with the people at Johns Creek; it seems like they have a much larger budget for maintenance per center line miles than we do.

- We have a lot of miles.

**Mayor Lockwood** asked City Manager Beckett if he had dealt with this in the past.

**City Manager Beckett**

- We are very far behind in terms of pavement planning and progression and we will have to take baby steps.
- He is confident over time we will be able to achieve results.
- There may have to be some innovative financing.
- There may have to be a bigger commitment of resources and there are still some questions that we have to ask, but there are some other variables that would impact the City.
- If we have a bridge repair or two that we have to bare on our own without very much DOT assistance for example; it puts us in a difficult situation but not an impossible situation.
- It will involve some education on our part for Council as well as the community so that expectations are realistic but none the less we have a responsibility to move forward in a progressive way.
- We may have to (at some point in time) talk about alternatives such as SPLOST (Special Purpose Local Option Sales Tax) and G.O. (General Obligation) Bonds.

**Mayor Lockwood** thanked Public Works Director Drake for his presentation.

**City Clerk Marchiafava** read agenda item #3.

**CONSIDERATION OF A REQUEST REGARDING DEANNEXATION FROM DENNIS POTTS**

**City Attorney Angie Davis**

- Many of you are familiar with this request.
- Mr. Potts is requesting his property be de-annexed from the City of Milton.
- The perplexing situation that this presents is; if this is de-annexed then that would mean it is not in the City of Milton.
- What we create upon that act is what is called an unincorporated island that is otherwise surrounded by municipal territory.
- There is a statute in the Georgia Code that provides that de-annexation cannot occur, if to do so would result in the creation of an unincorporated area.
- The City of Alpharetta is willing and would intend to annex this parcel, but there would be a period of time during which this would be an unincorporated parcel and that would make it an island, which is not permissible under Georgia law.
- It appears other people have done it.
- We have spoken with the City of Alpharetta and they have done it.
- They have been on the other end of this type of transaction.
- The way they do it is to enter into an intergovernmental agreement, so, we would have an agreement between Milton and the City of Alpharetta whereby we agree that we are going to put this forth and de-annex it and they would agree that immediately upon de-annexation that they would annex the parcel.
- The effort there is to demonstrate intent that it not be an island.
- That is the way that other cities have done it.
- She has a packet from the City of Alpharetta on another property totally unrelated to this piece where they have done that with Johns Creek.
- She suggests that is not perfect and it could be challenged.
- The challenge would be based on the notion that at the point and time it was de-annexed (if that is an illegal act) it would be void.
- If it is void it did not happen and that would be the argument someone might put forth.

- It is an interesting issue of law that has not been addressed, so what would happen in the challenge; we would put forth the intergovernmental agreement and say; here is the intent that it never be an island; here is the intent that it would be immediately annexed.
- There are some effective date issues that we would postpone de-annexation effective date.
- We would attempt to finesse that to correspond any future annexation in and by the City of Alpharetta, so that is what we have before us.
- The short answer is there are some legal problems with it.
- Be mindful of the potential challenge of your actions or the potential for a challenge to come to the City of Alpharetta.
- Apparently, there are others who have taken those risks and expose themselves to those issues.

**Mayor Lockwood**

- Asked City Attorney Davis if both cities and the applicant supported this; who in her opinion would challenge it.

**City Attorney Davis**

- The only challenge she could foresee would be surrounding property owners who may not like what happens to the property once it goes to Alpharetta.
- Very often those are the challenging parties.
- It is usually not city to city, but county to city.

**Councilmember Zahner Bailey**

- Asked if the goal of the de-annexation is to extend sewer to a property that previously has not been allowed for sewer?
- For purpose of this discussion she thinks legally we are being told that it would be an illegal act and that we have to consider what would happen in a challenge.
- What is incumbent on this body, regardless of what we might want to do individually to help the land owner is; what would we be doing to the city with regards to challenges.
- This property historically has been identified as being in the little river and the Etowah basin.
- We need more research, before she could indicate whether or not she could support that or not.
- We need to be mindful that we are responsible to all citizens and to all land owners and to anticipate what the challenge could be; what would be our position in such a challenge; and what would we be forfeiting as a jurisdiction if we were challenged.

**Mayor Lockwood**

- There were some situations where Alpharetta property owners requested to be in Milton and it was 100% annexation where we allowed them to come into Milton and if we set a precedent there then we need to look at that.

**City Attorney Davis**

- We can look at that and that would not bind our hands to do anything differently in this instance.
- To be clear; unlike what you are familiar with; a challenge in a zoning context being a thirty day challenges period; a challenge in an annexation context could come at any time in the future.
- In fact, just last Thursday she invalidated an annexation that occurred in 1988 and the judge ruled it null and void because they did not follow the law when they annexed, so there is not a time frame that would protect that challenge.

**Dennis Potts, 2745 Webb Road**

- Greg Hightower and I are assembling the property together and we are asking to be de-annexed because if we put a building on there, half would be in the City of Alpharetta and half in the City of Milton.

- He is not trying to hide the fact that he did not have sewer to that property.
- If they assemble the two properties there is already sewer on the Alpharetta property.

**Greg Hightower**

- Developed the Kroger, extended Windward Parkway, brought the sewer over into across Highway 9 and developed that section.
- At that time Dennis was a neighbor and we had been working with each other.
- We realized we had this tract that is only 190 feet deep that runs into the parkway that lends itself to be better assembled with Dennis.
- We have always had plans to develop the property and never anticipated the sewer issue.
- In the light of things as far as someone not being happy with the de-annexation or the annexation, it is a complicated issue.
- Our full intent is not to “hoodwink” anybody to get sewer.
- We do want to develop the property and we had wanted to develop the property before Milton came along.
- The intent was the property would be sewer.
- We are planning a medical facility for the site and it will bring a much needed amenity to both Alpharetta and the City of Milton.
- In addition the surrounding uses are there for sewer.
- Went to the extension which was to bring it from Highway 9 across, from one basin to another.
- The uses around there all have sewer.
- Does not want to create another wave of development that brings sewer like some other developers have done by getting a little piece of property and all of a sudden the sewer is over two miles away from where it was intended to be.
- We know the municipality issue and we had always felt that Dennis would come into the City of Alpharetta.
- We did not want to go through the process at the time because the land use was not ready but I think we are in that era at least within the next two years.

**Councilmember Thurman**

- It looks like more of the land is in the City of Milton than in the City of Alpharetta.

**Greg Hightower**

- That is correct; it is six acres versus three.

**Councilmember Thurman**

- But your desire is to go into the City of Alpharetta rather than staying in the City of Milton.

**Greg Hightower**

- We have a master plan and there is a lot of economic incentive.
- There are impact fees we still need to collect on the property and if we were to come here we would lose that potential of getting those impact fees and then we would have to turn around and pay again.

**Councilmember Thurman**

- You will have to pay additional impact fees by annexing into Alpharetta

**Greg Hightower**

- They had the impact fees covered.
- He has more impact fees than he has land to develop.
- When we built Windward Parkway they gave us impact fee credit.

- That was an issue because we would end up owning impact fees and that could be developed out.

#### **Mayor Lockwood**

- Thinks this is a special or different situation that deserves consideration by our Council.
- He certainly would like to keep all of the property we can in Milton.
- We need the revenues.
- He was certainly part of this Council that did not want to extend sewer to this property but he believes Mr. Potts in all fairness owns this property and was under the impression or had confirmation from Fulton County that he would get sewer and he would be able to develop the property.
- He does not feel comfortable standing in the way of a property owner that has a viable opportunity or option to annex into Alpharetta.
- He does not feel we have the right to keep him from annexing into Alpharetta if it makes sense for all property owners involved and it can be done legally.

#### **Councilmember Thurman**

- She agrees with him but what bothers her is the underlying feeling that she is hearing from some people in the business community saying they wish they were in Alpharetta rather than Milton because of our rules and regulations.
- She thinks Milton is a tremendous place to be and if we have people that are not wanting to be part of us, we need to look at what are we doing and maybe we need to make some adjustments.

#### **Councilmember Hewitt**

- Asked the City Attorney if we were to consider the de-annexation as far of the thought of a challenge, is there any way that we as a City could in some sort of agreement with the applicant be protected from some of that liability from a challenge.

#### **City Attorney Davis**

- We could consider some type of development agreement with the developer whereby we could seed indemnity; we could pursue something along those lines.
- It would be a concept that we could pursue if they are willing to do that.
- We would probably want them to post insurance as well to support any kind of indemnity.

#### **Councilmember Hewitt**

- If we de-annex it illegally we could be on the hook for a lot, if it were challenged.

#### **City Attorney Davis**

- The alternative is if we are challenged we could “throw our hands up” and say let the court decide and not pursue a rigorous defense.
- However it is easier said than done because they may come back at us and say “hey you did this and I relied on you doing it and therefore you have to come in and support the defense of this”.
- Indemnity is a good suggestion if Council decides to do this.

#### **Councilmember Tart**

- In terms of precedent setting and looking ahead, if we were to approve this de-annexation more information that he needs is to an idea of other similarly situated properties.
- To Councilmember Thurman’s point, if businesses are wanting to go to Alpharetta or other adjacent municipalities and there are other adjacent parcels that front other municipalities and they are not sewerred, would we set a precedent by de-annexing this property that is adjacent to another municipality.

**City Attorney Davis**

- That is a good question and precedent setting is probably sometimes misunderstood.
- She would suggest any time we can exercise our discretion, every parcel of property is somewhat different.
- If we do this and other people are similarly situated they probably will come requesting.
- That is certainly something viable if we send a message we are willing to do it.
- We can exercise our discretion independently each time as we should because each property will have a different set of circumstances that require different decisions.
- It will be our task to show the difference.

**Mayor Lockwood**

- This one might be an anomaly based on the situation and the progress that it was in before we became the City of Milton.
- If we start getting more request then maybe we do need to take a long hard look at what we are doing to make sure that we would like it to be reversed where Alpharetta was trying to get into Milton.

**Greg Hightower**

- City lines do not get drawn properly and these situations occur.
- There are property line issues.
- If someone comes up with twenty acres saying they want out of the City of Milton then that would be a major difference.
- The municipalities can stand on there reasoning, but to clean up edges and make things work right then that is what they are doing.

**Councilmember Tart**

- He wants to make sure there are no other edges we need to clean up.

**Councilmember Thurman**

- She wants to make sure that she understands the financial consequences of this decision.
- She does not know who can give us that information but she wants to understand what kind of revenue we will be passing up or the related expenses by doing the de-annexation.

**Councilmember Zahner Bailey**

- We have some sewer policies that are being evaluated and when you look at these it is an anomaly and the other part that makes it an anomaly is, there are two parcels in two different basins and while she wishes it was not complicated by that. The reality of what we are faced with is understanding all of those anomalies and understanding how the depth of each of those has an impact because some of the other dialogue that we just had is how does that impact precedent not just with regards to de-annexation but how would it put us in a position as a jurisdiction to have to deal with other similar request that effectively request for sewer extension.
- From a legal perspective, we need to be very certain that we understand the financial impact but that we also understand the sewer policy impact.

**Dennis Potts**

- Does not understand where we keep getting a sewer extension or inner basin transfer.
- All it would be is a sewer hook up.
- Once we hook up there is no one else going to be able to hook up and go off from that.

**Councilmember Thurman**

- He is pretty much an island.

**Dennis Potts**

- Exactly, this is something that Fulton County created but that is not the biggest issue someone is going to have to solve for the property to get developed.

**Councilmember Zahner Bailey**

- She thinks that is the point.
- We are looking at the overall policy because it is not just this one parcel.

**Dennis Potts**

- But there are no other parcels that are surrounded with sewer.
- We have two pieces that we are trying to put one building on and we are not going to be able to put a building half in Alpharetta and half in Milton and divide the money up.

**Councilmember Zahner Bailey**

- It is complicated by a number of things and sewer is just one of them.
- The other is the density and the different development approaches.
- Those are things we need to look at and consider.

**Mayor Lockwood**

- We have to move forward with our policy.
- Property owners need to know what to expect.
- He would certainly support asking our legal to check on a number of things; one being the liability issue and also the constitutionality of moving forward in the direction of is it ok or not.
- The other issue which is for another discussion is our sewer policy which is very pressing and we need to move forward on that also.

**Councilmember Tart**

- There were two other considerations for either our attorney or staff.
- One are there other parcels that are similarly situated in terms of whether they abut to municipalities, etc.
- The other one is what are the financial consequences of the de-annexation.

**Mayor Lockwood**

- Staff can follow up on those issues.

**Councilmember Zahner Bailey**

- She thought she heard Greg Hightower say the economic incentive is about 1.5 million dollars of impact fees that credits.
- Asked Greg Hightower to expound a little about the zoning criteria.
- Is it 120,000 square feet?
- Is that one building or multiple buildings?

**Greg Hightower**

- That is one building.

**Councilmember Zahner Bailey**

- It is one building, two stories and this would be on a total of nine acres roughly. So when you say the zoning criteria of Milton would not allow that, what are some of the densities.
- Right now, this is a speculative rezoning because there is no rezoning currently that allows for this whether it is in Alpharetta or Milton.

**Greg Hightower**

- It is zoned O-I, on the three acres.

**Councilmember Zahner Bailey**

- So you would not be able to put that amount of density on three acres.

**Greg Hightower**

- Correct. Alpharetta has different heights and density policies.

**Dennis Potts**

- Also he has x amount of setback from the front of the road and setback from the back so it leaves no property left.
- Greg's three acres and his six acres have to go together to really be able to develop it.

**Mayor Lockwood**

- He would like City Manager Beckett to pursue looking at all of these issues both legally and with staff so Council can have more information to make a decision.

**City Clerk Marchiafava** read agenda item #4.

**DISCUSSION ON CROOKED CREEK GATING.**

**City Manager Billy Beckett**

- We have tentatively established a meeting date for the Town Hall Meeting for the Crooked Creek issue for May 22 at Hopewell Middle School from 6:30 pm to 9:00.
- It will held in the cafeteria.
- The date was chosen understanding that school is out on the 23<sup>rd</sup>.
- Operations Coordinator Jestin Johnson did a great job in trying to find alternative locations.
- Milton high School was not available.
- He has had conversations with Mike Stevens of the Crooked Creek Homeowners Association regarding some of the questions that were conveyed that Council wanted them to provide to the public during that meeting and presumably he is working on those issues now.
- The format of the meeting will primarily be initiated by a presentation by the HOA and its representatives and their legal advisor.
- Staff will be present at that meeting to provide any factual information relative to the Cities abandonment policy or any other policies that may apply to this particular circumstance.
- There are a couple things that are relative.
- We have \$990,000.00 available for the entire pavement management program.
- The Crooked Creek HOA has obtained different estimates ranging from \$500,000.00 to \$600,000.00 over a period of a couple of years to bring the roads up to improvement prior to gating.
- One concern is to have the money we would have to extend to the project on the front end.
- They would have to provide Council with information as to how they obtained that cost data.
- Our Public Works Department has pointed out some problems with queuing and the HOA is working with our staff and with others in trying to address the issue of stacking and queuing of cars at one end or another.
- Typically, the burden of proof is on the petitioner to prove that there is no adverse impact on the general public for road closure and typically it is not a governmental entity to defend the decision of whether not to close a road.
- Presumably, the impact on the public will be adverse.

- Other issues will arise at the Town Hall Meeting and there may be some additional input that the HOA representative wants to provide Council with.

**Mike Stevens, Crooked Creek, 570 Greenview Terrace, Milton GA**

*(Power Point Presentation)*

**Crooked Creek HOA**

**Preserving Property Values and Protecting lives**

**Overview**

- Crooked Creek Overview
- Community Support
  
- Purpose for Gating
- Next Steps

**Community**

- **Established in 1995**
  - 640 Single Family Homes
    - Population 2176 people based on 3.4 / household
    - Approximately 11% of the City of Milton Population
    - 500 Acres = 2% of City Land
    - Avg. Home Value \$600K and falling
    - Property Tax Base is estimated to be \$ 768,000 / year for the City
    - Largest Community in the City of Milton
- **Location**
  - On Hwy 9 at Forsyth County Border
  - Major Cut Thru to Francis Road (discussed again later)
  - Rolling terrain with many creeks and a man made lake
  - Roads are hilly with many sharp turns and many cul-du-sacs

**Community**

- **Golf, Swim and Tennis Community**
  - Alpharetta Athletic Club Golf Course (formerly Crooked Creek GC)
    - Golf Course is separate and private
    - Membership for homeowners is optional
    - Community is unhappy with the name change
    - Would prefer the name to be Milton Athletic Club  
(new name being considered by owners)
- **Golf, Tennis & Swim Community**
  - Community Amenity Area
    - Run Down – requires \$1,000,000 renovation at a minimum
    - Not designed for 640 homes plus walk-ins
    - Located at front (Hwy 9) entrance
    - Directly on border of Forsyth County
    - Surrounded by Commercial and High Density Housing
    - Membership is included with HOA dues of \$750/year
    - 9 Tennis Courts with Full Time Staff
    - Swimming Pool, Playgrounds and Clubhouse
    - Parking lot is used by community at large as parking lot, meeting spot (drugs, hook ups, etc)

- Amenity Area is used by neighboring Communities (trespassing)

### **Voice of the Community**

We (HOA) have had a Government Affairs Committee researching gating for 5 years. When Fulton County said no we worked hard to help create Milton.

We have also tried to get additional Stop Signs, Speed Humps or Tables, Crosswalks, Radar Signs – anything to help reduce our traffic safety issues. Fulton County allowed nothing. Milton allowed three stop signs. We have also been studying an upgrade to our Amenities for nearly 2 years

- **2008 Annual HOA Meeting**
  - We held our Annual Meeting April 16, 2008 at the Alpharetta Marriott
    - 438 Votes (highest attendance ever for a Annual meeting)
      - 80.5% voted in favor of Gating
      - 73% voted in favor of \$4,000,000 Amenities Area Rebuild
  - Election/ballots supervised by Lueder Law Firm, LLC

### **Purpose of Gating**

There are simply two reasons that our Community is heavily in favor of gating;

- **Preserving Property Values**
  - If Crooked Creek Fails it Hurts all of Milton
- **Increasing Safety for our Residents**
  - It's only a matter of time before someone is seriously injured or worse
- **Preserving Property Values**
  - Heavy traffic on Creek Club Drive is making homes more difficult to sell even considering the current market conditions
  - Sale prices are dropping faster than the averages
  - This brings entire community value down and this affects the whole city
  - Community could fail if traffic issues are not addressed
- **Safety**
  - We have smaller than average lots in Crooked Creek so the homes are closer to the road
  - Many parents will not allow children to play in front yard
  - Many homes do not have much of a back yard because of creeks or the golf course or simply because the yards are small
- **Safety Continued**
  - Steep Terrain and blind curves also make safety issues bigger
  - It is dangerous to walk or ride a bike at certain times
  - Many unknown vehicles loiter in community
  - It is only a matter of time before someone, perhaps a child is seriously injured or worse.
  - There have already been many close calls and many pets killed.
- **Why is there Cut Through Traffic**
  - Study in 2006 showed 3,500 cars per day – in a location that excluded the entrance to 150 homes
  - Much higher traffic today
  - Hwy 9 traffic is growing exponentially
  - Will soon be as bad as State Bridge Rd was before widening

- Opening of Westside Parkway will also increase traffic
  
- **Cut Through Traffic continued**
  - Commercial Development is growing exponentially
  - New Wal-Mart (Forsyth), Target and Kohl's to name a few
  - Bottle neck at McFarland Road/Hwy 9 backs up to Golf Course
  - Soon it will back up to our front entrance
  - Already forces people to cut through
  - Hopewell/Cogburn Traffic is also redirected by huge bottle necks
  - Crooked Creek is in a unique location in Milton – affected by Hwy 9 and 400 more than most areas. In the middle of the highest density area in the City.

### **Final Thought**

**We realize that gating Crooked Creek creates an inconvenience to those that cut through to save time avoiding more congested roads.**

However, our roads and neighborhood were clearly not designed to be a “connector road” which it has become. This is why gating is so important now and was not needed when the community was developed.

We invite you to please visit our Community and stand on any corner of our main street for 30 minutes during prime drive times. You will clearly see first hand how DANGEROUS it is!

We would be happy to host a site visit one evening.

**Our property values and resident safety is our only concern.**

**It's only a matter of time ....**

### **Next Steps**

- Deliver all supporting materials to council (ASAP)
- Town Hall Meeting
  - May 22 – Hopewell Middle School
  - Open to all residents of Milton
- Address Existing Ordinances
  - Abandonment
  - Privatization
  
- Others?

### **Mayor Lockwood**

- Thanked Mike Stevens for his presentation.
- He has spent time in Crooked Creek and understands the reasoning for proposing this.
- He would support it but again he feels we need to go through the next steps to make sure both logistically and legally it can be done.
- He wants to be open to the entire community for feedback.

### **Councilmember D'Aversa**

- As a matter of interest, why did Fulton County turn it down?

### **Mike Stevens**

- The way that our roads were deeded it would have required 100% because every single homeowner would have had to change their title or deed to their property.
- Once we learned the roads were an easement and not deeded privately to each individual homeowner we would not have that same 100% requirement.
- We talked to the City Attorney (Mark Scott) nine months ago and that and realized that was not the case.

**Councilmember D'Aversa**

- Asked City Attorney Davis if based on what Mike Stevens said; what exactly legally has to happen if we were to approve something like this.
- What has to happen with our ordinance?

**City Attorney Davis**

- As a first matter, there are abandonment laws in the state of Georgia that say you can only abandon a road if it ceases to be used for substantial public purpose.
- There is a very limited exception that is really not in the statute, but it has been evidenced by case law where there was a road that was exceedingly dangerous because of curves and the court found in that case that it did not fulfill government purpose because of the dangerous nature of the road.
- There was an alternative route that was available in that situation and that is a little bit of an unusual case but that was the exception applied to this public purpose.
- If you can make that finding such that we can find some exception to the public purpose requirement and if they prove that then we do have ordinance that requires 100% consent of the affected land owners and while the outpouring was good and there was a huge percentage of people that voted and a huge percentage of people that is for it, it is not 100% so we would have to change our ordinance.

**Councilmember D'Aversa**

- Asked if she knew from other municipalities what maybe a typical percentage.

**City Attorney Davis**

- 100% is not uncommon.
- There are many jurisdictions that do not address it at all and they just take it up as it comes. so
- The ones that she can think of has the 100% rule, but again there is probably more that have no rule and they consider it under the Georgia Statutes.
- That is one option; an amendment is not to set an artificial percentage but just to say we are going to follow state law.
- She think the interest in having some kind of percentage consent is so the governing authority feels that there is some sense of the most effective members of the community really coming and wanting that.

**Councilmember D'Aversa**

- Asked why did Fulton County not support the traffic calming devices.

**Mike Stevens**

- We were deep into the process when they just pulled the plug and the only reason we went down that path is because we thought gating was off the table.
- Gating is far preferred to traffic calming. The Police Department, the Fire Department does not like it, residents do not like it, and it is noisy.
- We believe that gates are far more desirable.
- We had a difficult time working with them.

**Councilmember D'Aversa**

- Asked if that was something that Crooked Creek was going to fund.

**Mike Stevens**

- We are funding all of this except we are asking the City to get our roads back to the proper shape over some period of time and we will take over from that point on.

**Councilmember D'Aversa**

- Asked if they would still be interested in the traffic calming devices if gating were off the table.

**Mike Stevens**

- They would be open to it if that was their only case but they believe it hurts property value.
- We believe gating will raise property values.
- There are a lot of things we will present to Council before the town hall meeting that shows that gating raises property value.
- We will present things that will show that gating will raise property values on an average of 9 to 10 percent and is very much preferred in new development areas around the country.
- Gating is extremely popular in many new neighborhoods. We are looking to do it with a man gate, guard

**Councilmember D'Aversa**

- Asked what our ordinances say that we to do to allow them to have the traffic calming devices.

**Public Works Director Drake**

- We have a traffic calming policy.
- We have a list of seven or eight Homeowners Associations to be surveyed.
- They are on that list.
- We would have to do an analysis.

**City Attorney Davis**

- She would like to interject a final thing; the notion of the city paying to bring the roads up to speed either before abandonment or as was suggested over time after abandonment, could present a problem under the constitution of gratuities provision.
- We cannot spend tax payer monies for private benefit and that is what we would be doing if we are getting these roads perfect and giving them away.

**Mike Stevens**

- That is something they would have to address if it comes to that.
- The vote that was taken was simply to privatize the roads and take over ownership and repair but we did tell everybody we would be pursuing roughly \$600,000.00 in repairs.
- That is repairing the six miles of roads.
- We have done five traffic studies and we know what it will cost for the next twenty five years.
- A quarter of our neighborhood is on the list in the thirty and below number where it needs to be done now but the City does not have the money to do it now and we understand that.
- We have been paying tax money since the neighborhood has been in business and we have had virtually no road work done.
- Our roads are in bad shape.
- Our main street is the worse because the traffic is so high.
- It is much higher than the road is designed for so we are suffering because there is so much traffic.

**Councilmember Hewitt**

- Can we get a projection of what we would have to spend over the next term to maintain those roads.

**Public Works Director Drake**

- We could do that exercise.
- We would be looking over a twenty five year period because you have different lives of the assets.

**Councilmember Tart**

- It is probably exponentially so because the cost of paving gets higher and higher each year.
- As far as the number of votes, of those 438 votes, 80.5 percent voted in favor of the gating and he had heard that is 51% of the total membership. Is that correct?

**Mike Stevens**

- It is 640 homes; 438 eligible voted; one vote per household.

**Councilmember Tart**

- Asked what the HOA is doing to get the other forty something percent.
- Are you going door to door?

**Mike Stevens**

- The amenity required 51% of a quorum of our neighbors so there was some confusion.
- There were two different votes, one for the amenities and one for gating.
- We took it as more of a straw pool to see where the support is but we gave what we believe to be accurate numbers on the cost.
- We need to know if we need 51% of the whole community to sign the petition from the City to make this happen or if we need 100%.
- We are hoping it is closer to 51% than 100% but we need Council to tell us what we need to do to make this happen.

**Councilmember Tart**

- Thinks that is a fair request because a lot of work has been put into this and there will have to be a lot more work to get more people to agree to it.
- It would be good if this body could come to some kind of Resolution of what the HOA should expect.

**Mayor Lockwood**

- This whole percentage issue has been brought up from anywhere of 51% as you have proposed to our ordinance of 100%.
- It looks like the question is coming to the Council to come up with a percentage, somewhere in between.
- Would like to ask our staff or any input from Council on which direction to go or what is the best way to come up with a fair percentage.

**City Attorney Davis**

- It might be helpful to do a survey of surrounding Counties and Cities to give Council an idea of what others do.
- At that point it will still rest with Council discretion, but as a first matter; Council needs to decide if they want to change the 100%.

**Mayor Lockwood**

- Asked City Manager Beckett if he had ever seen this type of situation.

**City Manager Beckett**

- The policies he has seen range from 75% to 90% and 100%.

**Councilmember Tart**

- Asked Mike Stevens, in reference to the increase in the dues, the impact to the residents and does the HOA have a number that is directly related to the gating that does not also include the amenity package.

**Mike Stevens**

- It is \$450.00 a year per household.

**Public Works Director Drake**

- Asked if the \$450.00 was just for the gating portion.

**Mike Stevens**

- It is broken down as \$230.00 for guards to operate the gate and that is about \$50,000.00 per head per year and the rest for road maintenance.
- That is over \$150,000.00 a year set aside for road repair.

**Public Works Director Drake**

- Asked if that assumed the \$600,000.00.

**Mike Stevens**

- Correct.

**Public Works Director Drake**

- Asked if they had a number if the \$600,000.00 is not provided.

**Mike Stevens**

- They do not have a number yet.

**Public Works Director Drake**

- Asked if that included any of the dams or the other drainage structure.

**Mike Stevens**

- That is included.

**Mayor Lockwood**

- Asked if they were prepared to present that information to Council.

**Mike Stevens**

- Yes.

**Councilmember Tart**

- Asked City Attorney Davis if the 75 and 80 and 90 percent road abandonment policies that she has seen contemplates a road that is two miles long; that has three people living on it; and if for example it is 66%; then two of them decide they want it to be a private road.

**City Attorney Davis**

- She would have to look at those particular policies to say.
- The one situation that she can recall in her experience; was some ten years ago in Forsythe County, Deer Creek wanted a gate and went through this process and the County approved it based on the dangerous condition.
- It was cut through traffic and a home owner who did not want a gate sewed the County and the HOA.
- That case was litigated for years and she thinks it went up on appeal.
- It was long and hard fought.

- Most abandonment that comes before Council is an easy situation because it would be two or three home owners on a dead end road.
- This situation is unique in the sense that there are a lot of people involved and it may be that the 100% is not so unreasonable.

**Public Works Director Drake**

- The percentage is not for the abandonment.
- It is for the privatization policy.
- The abandonment is governed by the state and has a certain amount of public hearing requirements.
- The privatization policy that we have adopted is the one that has those percentages.

**City Manager Beckett**

- Those percentages do not guarantee that the road is going to be privatized.
- It may guarantee a public hearing but there are other regulations.

**Councilmember D'Aversa**

- Asked if they would have enough information for the town hall meeting on the 22<sup>nd</sup> because they have not even received the analysis.

**Public Works Director Drake**

- It would be helpful to have the queue and the traffic study and some of the other items within the next few days.
- If that is the case, we can be prepared for that.

**Mike Stevens**

- They will do their best, but they have only known about the Town Hall Meeting for a few days.
- They are not in that big of a hurry.

**Councilmember D'Aversa**

- Thinks we should change it because it was her that brought up the idea of having the meeting and she thought they were in a bigger hurry.

**Mike Stevens**

- The way they look at it is their amenity project kicks off in September and we want to be finished in the spring.
- We know there will be opposition from outside the neighborhood from a convenient stand point and some inside the community from a cost stand point.

**Mayor Lockwood**

- Going back to the City Attorney's point made about whether we change our numbers or ordinance or policy from 100%.
- Can we ask if there is any interest from Council in at least addressing that?

**Councilmember Zahner Bailey**

- It is her understanding of the abandonment policy or privatization policy currently that it applies to all roads so what we have to consider is what the impact will be not only for Crooked Creek but all of the roads.

**Mayor Lockwood**

- To clarify; he was asking if we are looking to deviate from 100% for now.

**Councilmember Zahner Bailey**

- Her thought process is what other roads are going to be forthcoming making similar request and making the state threshold.
- Is there a way to consider if we were to change the policy to have different policies for different road types?
- With a policy change (while it might benefit Crooked Creek in this particular item), the reality is that we have to grapple with how it impacts these other policies that are in place.
- If when we start looking at surveys or other jurisdictions or other counties, she would be curious if we would have a different approach for a different road type.
- We need more data in terms of other communities and what some other approaches are so that we are not guessing at what we think could work.

**City Manager Beckett**

- Normally, you have a traffic engineering study so that you understand the implications of your actions.
- Usually in a transportation system, if you impede traffic by traffic calming device, alternative road, barriers such as a gate; usually that is going to shift that problem to another direction because traffic is going to tend to follow the path of least resistance, so you may solve Crooked Creeks problem by gating but you may unintentionally create a problem elsewhere.
- In looking at these types of issues in the past, there would be a traffic engineering study and an analysis of the impact up front, by the petitioner.
- He understands that they do not want to do that because; why spend the money that they would be required to spend for such studies if there is absolutely no chance that Council will bury the 100% policy.
- He would struggle to give an opinion that Council should change the 100% because he does not know what the impact is because we do not have the data.
- So does the study come first or does the Ordinance change come first.
- If we do not have good data, we do not know what the impact of the decision would be and subsequently we do not know what that kind of a policy change might have on the City in the future.

**Councilmember Tart**

- He really does think that Crooked Creek needs to know something at some point.
- He would urge Council to be cautious in giving direction to the City Attorney, to even look at that Ordinance without the public input because the fact that we give our attorney some direction and say we need to look at modifying the Ordinance gives the impression to the public that we have made our decision without first getting their input.
- If it is not an urgent matter for Crooked Creek, we need to get the input from the public.
- Depending on what we hear there we need to then look at what Mr. Beckett pointed out as far as traffic studies and then we can look at the Ordinance.

**Mike Stevens**

- He understands that cutting off the cut through traffic will put more traffic onto Highway 9 and onto Cogburn Road but he would argue that those roads are designed to be major roads and they are a community of one hundred homes on that street alone.
- That road was not designed to be what it is today and there is no hope in sight for us unless this happens.
- We are going to have some serious issues if it does not happen.

**Councilmember Zahner Bailey**

- Could we get a copy of the data that the HOA already has?
- It sounds like that would be helpful to the Public Works Department and that would be more information than we now have.

- She wants to clarify that the \$451.00 of incremental assessment to each home owner was under the presumption that the \$600,000.00 would be able to be funded.

**Mike Stevens**

- So there is no confusion, we were looking for the city to put us into the paving plan sooner than later.
- We would like to move closer to the top of the list because we are possibly going to be off of the list forever in the future.

**City Manager Beckett**

- As a point of reference, he gave Council a copy of the policy that exist somewhere else and it has some examples of alternative traffic calming measures.
- It gives some visuals as well as descriptions.
- Some have less impact on emergency vehicles.

**Mayor Lockwood**

- He would like to ask direction from staff and legal about the best way to move forward.

**Public Works Director Drake**

- One of the things that the Council adopted last year was the Milton Trail plan which called for the trail going through this neighborhood and this may make everything move if the presumptive cannot be shown that it is not of further public use.

**City Attorney Davis**

- That is correct and to the extent that we are expending public funds on the bike trail; if it is not going to go through a public area, that is obviously a problem.
- She is not sure what the purpose of the Town Hall Meeting is.
- If the purpose is just to get community input then that really goes more to a privatization policy; so maybe that is even premature.
- It seems that the very first issue is a legal one and that is whether this Council is comfortable with the substantial purpose issue and if “that is the chicken we want to take before the egg” then what we need from the HOA is their data on safety and the reasons they want this to be privatized.

**Councilmember D’Aversa**

- The reason for the Town Hall Meeting is that there are a lot of discrepancies in the level of understanding within Crooked Creek and outside of Crooked Creek.

**Public Works Director Drake**

- Having a traffic study by the HOA would be helpful especially since they said the study Fulton did was flawed.

**City Attorney Davis**

- If that is the way this Council would like to go then it would be appropriate for the Council to take a vote and make a determination that is the direction you want to give the HOA.

**Mayor Lockwood**

- Asked if there was a way that real quickly staff could look at the old study and do some math based on current homes and come up with an average that would give us 80 or 90 percent accurate information without having the HOA spend \$50,000.00 or whatever the traffic study would be.

**Public Works Director Drake**

- He could commit to looking at the study to see if there is information in there to do that but he cannot commit that will be enough for the analysis we need.

**City Attorney Davis**

- That is a good point because it is not just about volume; volume determines how big the road should be and those types of things.
- It is about safety so it may be more than just a volume count.
- It may need to be a speed count, so it could be a very in depth discussion or study.
- Mr. Beckett's point is well taken.
- To ask Council to vary from a general rule and state law would be burdensome.
- She thinks that is a burden appropriately placed with the requesting party.
- She does not want to mislead the homeowners association to think that just a car count would result in the City being able to say there is no public purpose of this road.
- It may demonstrate just the opposite if there are no safety issues presented.

**Mike Stevens**

- The study they had done was a speed study as well as a traffic count in two locations.
- It was too deep into the community to count the first juvenile off shoots, which is about 150 houses.

**Public Works Director Drake**

- Asked if it calculated the traffic diversion that would go down.

**Mike Stevens**

- No, it was just speed and number of cars; both directions in two spots.
- We understood the City's desire for that traffic study was to have it counting all of the cars; video taped license plates coming in and out of the neighborhood, so we could determine whether they were a resident, and then determine the cut through and the visitors.
- It was extremely complicated and the cost was \$35,000.00 not to mention the time it would take us to gather the license plates for every resident which could take us months.

**Mayor Lockwood**

- Asked if staff and legal could give Council a recommendation on how they think we should proceed; both in the interest of addressing the applicant situation and what as a City we need to look at.

**City Manager Beckett**

- We can certainly compile as much information as possible from the staff level and make a recommendation that probably will not please anyone but we can come up with a recommendation predicated upon as much information as we have available to us.
- For example, very candid if the \$600,000.00 is in the pot he can say that for him personally and professionally that would be a deal killer right off the bat.
- He does not think the city is in a position to commit \$500,000.00 of its road funds for a single subdivision, under any circumstances even if you projected it over time because we are a start up city and those resources have to be allocated in a manner that is fairly consistent with what you are doing now.
- As for willing to work with the community, absolutely, we all know that we need to be more responsive than the previous experience that the residents had, so he is willing to look at alternatives and make some recommendations along that line.
- At the staff level we can do those sorts of things and meet with Mr. Stevens as appropriate to address the gate issue but from our stand point it will be predicated on financial issues as well as the broader issue.
- The most critical issue is; what benefit does it provide to the general public.

- He understands the benefit to the residents of Crooked Creek but it does not serve the broad interest of the general public.

**Mayor Lockwood**

- Suggested they cancel the Town Hall Meeting and let staff gather more information and work with our City Attorney and the petitioner to come back with more information or recommendations.

**Councilmember D'Aversa**

- She personally thinks we have to do everything we possibly can to help them.
- She understands that they are the petitioner and the burden of proof is on them; however, they are a large portion of our community and they have an extreme safety issue.

**Mayor Lockwood**

- He supports that.
- We want to do what we can to help them, but we have to look at the whole picture and do what is prudent for the whole City.
- There are levels of concern on what we can and cannot legally do and if we are affecting the City in a negative way.

**Mike Stevens**

- Asked if a time line could be put on this.

**City Attorney Davis**

- It might be helpful for the HOA to give us their time line as to when they can get the material to us.

**Mike Stevens**

- He can get all of the material they currently have some time next week.

**City Attorney Davis**

- Asked if they were contemplating on doing the additional studies to fill in the holes or to wait on staff?

**Mike Stevens**

- Would like to start with what they have and then wait for feed back on that, because he does not want to spend \$35,000.00 if it is not needed.
- The city was going to do a traffic study for us when we first started the City back in January of 2007 but they are certainly willing to take on some cost for the traffic studies.

**Public Works Director Drake**

- We still have the ability to do traffic studies for traffic calming program applicants.
- This is a different thing at this point because they are asking for the gating.

**Mike Stevens**

- That would give us speed and traffic counts and it would be current data versus the 2006 data we have.

**Public Works Director Drake**

- That is correct in pursuit of traffic calming versus privatization.
- We have a queue of others who want traffic calming on public streets and he would probably yield to them before someone who might not be a public street much longer.

**Councilmember Zahner Bailey**

- It sounds like at a state level we are required by state law to have certain thresholds met and that is where the premise of the study is coming from.
- If we know that traffic calming is not their first choice; to expend tax payer dollars to do a study for one subdivision versus another; is where staff and the City Manager have to determine if we can allocate dollars in that way if the traffic calming is just a way to get to that other.

**City Manager Beckett**

- We still have not addressed the issue of time table.
- He needs some information from the HOA.
- Also just as an observation he thinks we have been about the City's business in such a manner that we have utilized a lot of incremental approaches to resolving some pretty complex problems that are universal.
- The traffic calming issue and the cut through traffic issue is a pretty complex and wide spread issue in this community.
- He has heard from three or four communities about many of the same issues, but not to the same extent because of the Frances to Highway 9 issue.
- Thinks that committing some resources which the City will have to do which may be painful and design some policies that are comprehensive in nature to address this so Council does not have to go through this issue every time.
- This is a problem that may be bigger than we know and as attention is drawn to this issue we are going to have to deal with it more frequently.
- We as a staff need to devote time to coming up with a policy that is consistent and we need to make recommendations to Council about allocating resources to some of these traffic calming measures that can be implemented over time.
- In the meantime while we are doing that we need to work with the Crooked Creek subdivision to try to come up with a solution.
- He is still struggling with the \$600,000.00 that was built into the equation that came in with the assessment.
- He needs to know if gating is still viable for their membership with them eating the \$600,000.00 up front.

**Mike Stevens**

- Thinks they could get by with some of it.

**City Manager Beckett**

- As far as he is concerned that is a big piece of the puzzle.

**Mike Stevens**

- They have other ways around that.
- They can finance it because he does not see them allowing \$600,000.00 getting in the way of the safety of their citizens.
- The HOA Board is responsible for protecting the property values and the citizens and they take that very seriously.

**City Manager Beckett**

- We all want to be responsible but we are all going to have constraints that we are going to have to deal with and this is not as simple an issue as he wishes.

**Mayor Lockwood**

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- If the HOA can get City Manager Beckett all of the information they currently have then he can get that to the rest of the staff.
  - Staff can look at it and come back to us at the next meeting under staff reports and give us an idea if there is enough information to make an eighty percent recommendation in thirty days; or if there is absolutely not enough information and the HOA has to start from scratch. At that time Council can make a decision on a time line.

**Councilmember Tart**

- He would agree with that except bring the information to the first meeting in June versus next Monday.

**Mayor Lockwood** said he agreed with that and thanked the Mike Stevens.

After no further business, the Work Session adjourned 9:17 p.m.

**Date Approved:** June 2, 2008

  
\_\_\_\_\_  
Jeanette R. Marchiafava, City Clerk

  
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Joe Lockwood, Mayor

