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The Work Session of the Mayor and Council of the City of Milton was held on June 9, 2008 at 6:00 PM, Mayor Joe Lockwood presiding.

Councilmembers Present: Councilmember Tina D'Aversa, Councilmember Alan Tart, Councilmember Karen Thurman, Councilmember Burt Hewitt

Councilmembers Absent: Councilmember Julie Zahner Bailey, Councilmember Bill Lusk

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.

Staff requested the following changes to the agenda:

1. Add as item #1; Update on the Weiland Wall.
2. Defer until July 17, 2008 Discussion on IGA with the City of Alpharetta for 911 and dispatch center.

Deputy City Clerk Fonda Messer read Agenda Item #1.

UPDATE ON THE WEILAND WALL

Carter Lucas, Professional Engineer, CH2MHILL

- Asked to give a brief summary on a meeting with EPD.
- We met with representatives of EPD John Weiland and their engineering firm to discuss existing storm water detention wall behind church property.
- EPD's main concern has been the compliance of the plans with the state general permit.
- Their focus was on making sure the plans were brought into compliance with the State NPDES permit.
- They had received plans from both the City of Milton for their review.
- They found a number of discrepancies in the plans.
- They were requiring the engineer to return a completed set of plans that complied with the permit and represented what was approved originally and any modifications that may have been done in the field.
- In association with those errors they expected to issue an enforcement action to include monetary penalties.
- It will be issued either this week or next week.
- We discussed whether the wall was properly permitted.
- They did not see a requirement for them to take down the wall.
- He expects when they issue the enforcement action, they will ask that Weiland modify or remove the wall voluntarily.
- That will probably occur after the enforcement action.
- These actions were taken in support of the City of Milton and they thanked the City for the actions they had taken up to this point.
- Hopes to see some results within the next two weeks.

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- Even though we had originally discussed this action being coordinated with the court, it would probably two separate processes.
 - EPD will take their own procedures and the corps will follow up behind them with enforcement action of their own regarding the wall and any impacts that may have occurred associated with the wall.

Mayor Lockwood thanked Carter Lucas for the update.

Deputy City Clerk Messer read the next agenda item.

DISCUSSION ON BUDGET AMENDMENTS.

Finance Manager Stacy Inglis

- The goal of the fiscal year 2008 budget amendment is to provide an opportunity for each department to request funding to cover expenditures incurred as either unforeseen or omitted from the original budget passed by the City Council on September 20, 2007.
- The General fund is principal operating fund and used to facilitate current year operations.
- General Fund revenues have unrestricted use.
- Expenditure requests are categorized into two categories: Salary/Benefits and Maintenance/Operating.
- General Fund Summary: Revenue Appropriation Decrease of \$369,602; Expenditure Appropriation Decrease of \$369,602.
- The change in original revenue estimates driven by analysis of activity for the months of October through April.
- Projection was completed using available data.
- A decrease of \$(153,000) in Real property Taxes is offset by an increase in personal Property taxes of \$153,000.
- Real property is land and buildings and personal property are things like boats, machinery, equipment, fixtures, furniture etcetera.
- Utility Property Taxes; not included in original budget, is represented by an increase of \$576,277.
- The state assesses those values, so we received those values at the beginning of this year.
- Prior year property taxes not included in the revenue estimates for the adopted budget.
- They were all collected last year.
- There was approximately \$700,000 not collected by the end of last year after all of the accruals.
- We are in the process of collecting those now and we have received \$441,000 in real property taxes and \$27,000 in personal property collected so far.
- We are still contracted with DTSI (Delinquent Tax Solutions Incorporated) to help us with the rest of those collections.
- An increase of \$500,000 and \$30,000 is recommended to account for these collections.
- We will probably exceed that number and when that happens we will bring forth another budget amendment.
- Intangible tax, Real Estate Transfer Tax, Zoning and Land Use Permits and Land Disturbance Permits are all driven by the Real Estate market.
- Those are greatly affecting our revenues.
- Proposed a decrease of \$282,298.00 combined in all of those accounts.
- Building Permit revenues have increased from what we thought.
- Historical analysis of franchise fees and Local Option Sales Tax is higher than we anticipated so we propose an increase of \$95,924 and \$44,269 respectively.
- Municipal Court administrative fees and fines and forfeitures are trending lower than we anticipated.
- We propose a decrease of \$331,000 of administrative fees and a decrease of \$514,000 and some change of fines and forfeitures.

Councilmember Thurman

- Asked if the property taxes on utilities were for the last fiscal year or this fiscal year?

Finance Manager Inglis

- Those are 2007 assessments.
- Typically, we will get the assessments from the state between December and January and then we bill them out.
- We have to provide sixty days for them to pay.
- They are not billed like the regular property taxes are.
- The County does not provide these numbers to us, the state provides the numbers.

Councilmember Thurman

- Asked if it values as of the January 1st of that year.

Finance Manager Inglis

- She thinks it would be January 1st of the previous year.

Councilmember Thurman

- So they are collected a year after it has been assessed.

Finance Manager Inglis

- She will have to look that up to be sure.

Councilmember Thurman

- The prior year property taxes are real and personal property taxes. She asked is that bill mailed out last year, but not collected and not approved in the prior year.
- Asked how we determine the amount that is included in the prior year.

Finance Manager Inglis

- That is always the collections that were sixty days after the fiscal year ended.
- Between October 1st and November 30th we accrue those back to the previous fiscal year.
- These are revenues after the accruals.
- Further down the list there are penalties and interest on real property and on personal property; \$30,000 and \$6,000.

Councilmember Thurman

- We are using a collection agency now, but are we doing it in net of their fees or do the fees pay out as an expense.

Finance Manager Inglis

- The actual delinquent property whenever we try to collect those fees; they are actually paying those fees.
- The City is not paying those fees.

Councilmember D'Aversa

- Asked Mayor Lockwood if there were any plans to evaluate the Municipal Court fees.
- It was her understanding from a prior discussion that we had people coming through the court system and there were fines that we would be closer to what we budgeted if we had actually collected those fines.
- Do we have plans to review that process?

Mayor Lockwood

- We do not have a plan in place.

Councilmember D'Aversa

- Asked if it was up to the Judges' discretion.

Public Safety Director Lagerbloom

- It is very hard to come up with a good accurate number especially when we have no history.
- When we compare with other similar size cities and law enforcement agencies and problems and number of citizens there is a bit of guess work.
- Seeing what we have seen so far this year he has a level of comfort that the Mayor and he are on the same page with the Municipal Court at this point.
- He thinks it will help in the future knowing what the history of the court has been to make a better estimation in future years.
- There is no blame to place anywhere with the numbers that we came up with the first time because it was built on good sound logic.
- That logic may not have worked for the particular style of court that we have in the City of Milton.
- He thinks we will get better in future years.

Councilmember D'Aversa

- She is not questioning so much the number and how we came up with it, but if we feel comfortable with the process that we have.

Public Safety Director Lagerbloom

- Thinks we have a very fair court which is what we want a court to be.
- Thinks we have a smooth running court.

Councilmember Thurman

- Asked what the realized standard loss on investment was.

Finance Manager Inglis

- The interest earned on the money market.

Councilmember Thurman

- Asked what the difference and TAN proceeds interest.

Finance Manager Inglis

- We keep the TAN in a separate account and we can only earn as much interest on the TAN as we are paying in interest.
- As for the expenditures; we are not a traditional government because of the private public partnership so we try to mimic a traditional government as much as possible when reporting these numbers.
- It is difficult to allocate the cost of the contract for the private partnership.
- Initially the budget was based on full time equivalent positions, which is a very reasonable and quick way of doing it but we have to look at what it really does cost to run a department.
- Using Public Works as an example: they have a small number of employees but it is one of the more costly departments to operate.
- We have re-allocated the contract cost for CH2MHILL.
- She conducted a study on other traditional governments the size of the City of Milton have allocated their cost as a percentage of the budget.
- She tried to get it as close to possible in comparative to other governments.

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- On the CH2MHILL Contract Allocation Sheet, the budget amendment is \$26,953 more than the original budget because originally when the escalator was put into the first draft budget it was figured a little low. When we finally got the figures in, we re-allocated most of the money around to try and make it work within the departments and there was one department that got missed so it is not really an increase in the actual contract cost. It is just something that was missed through the initial process.
 - She is doing away with the Program Manager Department and re-allocated it to all of the departments.
 - There is also re-allocation to the City Hall Lease and that is mainly due to doing away with the Program Manager Department.
 - The City Hall Lease was budgeted on \$36,706 a month, but the first three months of the fiscal year was actually \$11,408 per month so the total cost of the lease allocation is \$77,883 less than originally budgeted.
 - In the Mayor and Council budget, she recommends a decrease in Salary & Benefits accounts for vacant Executive Aide position.
 - Increase Professional Fees to account for Marie Garrett's fees.
 - Those fees are for hiring the new City Manager.
 - Increased professional Fees contracted to reallocate CH2MHILL contract costs.
 - Increased Rental Land & Buildings to reallocate the City Hall lease expense.
 - Increased Dues & Fees for HYA sponsorship
 - Increase General Supplies to cover cost of poinsettias for entrances.
 - Decreased Worker's Comp to match actual expenditures.
 - Decreased Professional Fees to account for refund for general elections
 - Increased Professional Fees contracted to reallocate the CH2M Hill contract costs.
 - Decreased Rental land & Buildings to reallocate the City hall lease expense
 - Decreased Dues and Fees to reflect estimated expenditures.
 - Increased General Supplies to cover cost of ledger paper.
 - Increased Machinery & Equip to cover cost of digital recorder.

Councilmember Tart

- Confused by the numbers under stipend for the Mayor and Council.

Finance Manager Inglis

- Those numbers are from the very beginning of the fiscal year.
- It does not mean that you have requested all of that reimbursement; it was also your predecessor.
- Moving on to the City Manager Budget.
- Increased Salary & Wages to account bring in line with estimated costs.
- Increased professional Fees contracted to reallocate the CH2M Hill contract costs
- Decreased Rental land & Building to reallocate the City Hall lease expense
- Increased Rental Equipment & Vehicles to cover costs
- Increased Dues & Fees to cover ICMA costs for City Manager & Interim City Manager.
- The Decrease under Program Management is doing away of that department.
- Operations/Finance
- Decreased Salary and Benefits accounts due to vacant Operations Director position.
- Increased Professional Fees contracted to reallocate the CH2M Hill contract costs
- Increased Credit Card Fees account to cover monthly maintenance fees for accepting credit cards
- Decreased Rental land & Building to reallocate the City Hall lease expense
- Increased Printing to cover cost of printing property tax bills
- Increased General Supplies to cover cost of mailing property tax bills.
- Operations/IT
- Decreased professional Fees contracted to reallocate the CH2M Hill contract costs

- Decreased Rental land & Building to reallocate the City hall lease expense.
- Operations/HR
- Increased Professional Fees to cover cost of administering the flexible spending and 401A/457B benefits.
- Increased Professional Fees contracted to reallocate the CH2M Hill contract costs
- Increased Rental land & Buildings to reallocate the City Hall lease expense
- Increased printing to cover the cost of printing benefits manuals.

Councilmember Thurman

- Would like for someone to look at the defined benefit plan.
- Her experience with defined benefit plans is that they usually bankrupt cities, governments and private industries.
- The cost of maintaining them is extremely high.

Finance Manager Inglis

- Made a note of it.
- Operations/Public Information
- Increased Professional Fees contracted to reallocate the CH2M hill contract costs.
- Decreased Rental land & Building to reallocate the City hall lease expense.
- Increased printing to cover the cost of printing the addresses on the annual calendar.
- Total \$97,839.
- Municipal Court.
- Cut half of the part time admin position.
- Increased professional Fees to cover the cost of installing the panic button.
- Increased Professional Fees to cover the cost of Court room security.
- Decreased professional Fees for sub-solicitor.
- Increased Professional Fees for sub-judge.
- Increased professional Fees contracted to reallocate the CH2M Hill contract costs.
- Increased Rental Land & Buildings to reallocate the City hall lease expense.
- Increased Communications to cover monthly panic alarm monitoring fee.
- Increased Dues and Fees to cover various costs.
- Cut the desk for the part time admin position.
- Total \$171,765.
- Public Safety Administration
- Increased Overtime to cover cost of admin assistant overtime hours.
- Decrease Worker's Comp to match actual cost.
- Increased professional Fees to cover the cost of car decals.
- Increased professional Fees for new employee physicals.
- Increased Professional Fees to cover the cost of recruitment psych testing.
- Increased Professional Fees contracted to reallocate the CH2M Hill contract costs.
- Increased professional Fees contracted to include additional support for new software.
- Decreased equipment R&M due to expected expenditures for the remainder of the year.
- Decreased Rental Land & building to reallocate the City Hall lease expense.
- Decreased the expected cost for cell phones and wireless cards in Communications.
- Decreased Advertising budget for recruitment advertising.
- Decreased Printing budget for printing of police forms and citations.
- Increased Maintenance Contracts to cover the cost of the IGA with Fulton County for using their 800 MHZ radio system.
- Decreased maintenance Contracts to transfer the American law Enforcement network budget to Police.
- Increased maintenance Contracts to move Animal Control IGA from Public Works.

- Increased General Supplies to cover expected cost of office supplies.
- Increased Food/Meals to cover cost of food for staff during investigations Network to Police.
- Increased other Equip/hardware to cover the cost of ICOP Digital.
- Increased Other Equip/Miscellaneous to cover the cost of the hydraulic cutter and utility trailer.
- Total \$13,999.
- Public Safety/Police
- Increased overtime to cover expected costs.
- Increased Tuition Reimbursement to cover actual costs.
- Increased Unemployment Insurance to cover expected costs.
- Decreased Worker's Comp to match actual costs.
- Increased professional Fees to cover K-9 costs.
- Increased Rental land & Buildings to reallocate the City Hall lease expense.
- Increased Communications to cover costs associated with cell phones and wireless cards.
- Increased Travel to cover actual travel related costs.
- Increased Maintenance Contracts for the transfer from Public Safety Admin for American Law Enforcement Network.
- Cut code books and manuals out of General Supplies.
- Increased Furniture & Fixtures to cover the cost of filing cabinets not budgeted.
- Transfer American law Enforcement Network from Public Safety Admin.
- Decreased weaponry to match expected costs.
- Increased Computer Software to include the purchase of Police Department Software.
- Decreased Miscellaneous Equipment budget for K-9.
- Total \$107,943

Public Safety Director Lagerbloom

- We had something that would generate reports for our citizens from day one.
- We have had the ability to track in a database.
- He now has a comparison for what a piece of junk software program runs like.
- The software that we presently have was functional for us for a year.
- It is very limited in its technology basis.
- We did some due diligence and it came highly recommended by several police agencies in the state that are using this software.
- Maybe our expectations or performances are higher than other places.
- They just completed an update for us and their version of an update was to download our database to DVD and fed ex them to them. Then between seven and thirty seven days later they would get us those back to re-install the software program here at City Hall.
- They wanted us to be down for one eight hour business day while they dialed in from Statesboro to complete an update.
- There are some exciting things coming to the City of Milton and Alpharetta in October as relates to the dispatch center.
- The software we have now is a mobile field reporting software which means the officers in the field can type their reports in and it downloads into the data base here and that is the extent of the capabilities of the software.
- In October, he would be asking for an additional software package to be able to tie into the computer aided dispatch center that the City of Alpharetta has.
- Rather than putting money into fixing a miserable system, it would be better to replace it.
- The nice thing about the software package we are looking at is it is compatible with the million dollar system Alpharetta has purchased to the extent that our officers will realize some increased benefits in the field by having data pushed from the dispatch center into the police car, which they cannot do now.
- They will be able to get the note from the dispatcher and find the calls faster.

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- The dispatch center will be able to see the officers in the field by their gps co ordinance.
 - The system we looked at works locally and works with what Alpharetta has.
 - When the City Manager asked if there was something that we could add to the Police and Fire Department to generate efficiency, this was top on my list.

Councilmember D'Aversa

- Asked what the cost of the original software was.

Public Safety Director Lagerbloom

- We had budgeted \$35,000 and we spent \$34,000.

Councilmember Thurman

- Asked if this was a one time fee or is there an annual update fee.

Public Safety Director Lagerbloom

- There is an annual maintenance fee.

Finance Manager Inglis

- Public Safety – Fire
- Decreased Salary & Benefits due to 7 vacant positions for 6 months
- Increased Professional Fees to cover projected cost of medical director.
- Cut Grounds Repair & Maintenance
- Decreased Rental land & Buildings due to amended contract with the County for sublease on Station 18.
- Increased Rental land & Buildings to reallocate the City Hall lease expense.
- Increased Rental Equip & Vehicles to cover the cost of renting oxygen tanks.
- Decreased Education & Training for professional development to match expected costs.
- Increased Telephone Service to cover cost of telephone expense
- Increased General Supplies for cleaning/household supplies for the stations.
- Increased utility accounts to cover expected costs.
- Increased Furniture & fixtures for the purchase of a filing cabinet
- Increased Other Equipment – Software to include the purchase of Firehouse.
- Total (\$133,850)
- Public Safety/EMS Operations.
- Create new department to account for the unexpected cost of subsidizing EMS services.
- Total \$33,063
- Public Works
- Increased professional Fees to cover cost of title search on donated land.
- Increased Professional Fees to add the Solid Waste Management Plan to budget.
- Increased professional Fees to add the Transportation Study to the budget.
- Decreased Professional Fees contracted to reallocate the CH2M Hill contract costs.
- Decreased Rental Land & buildings to reallocate the City Hall lease expense.
- Decreased Maintenance Contracts to move animal control contract to Public Safety.
- Increased Electricity to cover cost of utility bills.
- Total (\$11,523)
- Parks and Recreation
- Decreased Professional Fees contracted to reallocate the CH2M Hill contract costs.
- Decreased Rental Land & Buildings to reallocate the City hall lease expense.
- Increase Water/Sewerage to cover cost of water.
- Increased natural Gas to cover cost of this utility.

- Total (\$254,414)
- Community Development
- Increased Professional Fees contracted to reallocate the CH2M Hill contract costs.
- Decreased Rental land & Buildings to reallocate the City Hall lease expense.
- Total \$149,943.
- Debt Service
- Decrease Capital lease Principal budget to reflect actual cost.
- Decreased TAN Interest to reflect actual cost.
- Total (\$4,094)
- Other Financing Sources/Uses
- Decreased unallocated amount to cover the unexpected cost of repairing the bridge on Landrum Rd.
- Decreased unallocated amount to cover the unexpected cost of subsidizing the EMS service.
- Increased unallocated to balance the budget.
- Increase Op Transfer Out to Capital Project Fund to cover capital projects not initially funded.
- Total \$357,905
- Capital Projects Fund – Revenue
- Increase Op Transfer in from general Fund to cover additional costs of projects.
- Total \$409,750
- Capital Projects Fund – Expenditures
- Increase Storm water Maintenance/NPDES to cover estimated costs of project.
- Move the budget for the Freemanville @ Providence intersection improvements to Arnold Mill @ New Providence intersection improvements.
- Add new project: Bridge Repairs-Landrum Rd.
- Total \$409,750
- Capital Grant Fund
- Cut budget for Assistance to Firefighter Grant.
- Cut budget for Safe Routes Grant.
- Move Transportation Master Plan budget from Community Development to Public Works.

Deputy City Clerk Messer read the next agenda item.

DISCUSSION ON BOARD OF ZONING APPEALS PROCESSES

(Zoning issues typed verbatim)

Sandy Jones, Chairman of the Board of Zoning Appeals

Good evening Mayor, Council and City Staff. First of all I want to apologize that you guys are getting this now. We have had some technical issues (actually I have) and meant to get this to you this weekend, but was not able to. Also, we had originally the last time we were before you had stated, you had requested to try to get recommendations from us by May 12th and we were not able to do that because we had an administrative issue that kept us from meeting. We did meet last week and these are the results of our meeting. I am going to go through this memo and read this to you and from there we can address any questions that you have. On March 27, 2008, the Milton Board of Zoning Appeals held a Special Called Meeting. During that Special Called Meeting the BZA unanimously passed a motion requesting the opportunity to make a formal recommendations to the City Council on the following points raised at the March 10, 2008 City Council Work Session. Number One: limiting the jurisdiction of the Board of Zoning Appeals to consider variances involving more than “x” number of lots, or “x” acres. Number Two: removing stream buffer variances from the jurisdiction of the BZA. Number Three: deletion of “harmony” as an independent basis for a variance. Number Four: further recommendations. The following represents the BZA’S proposed recommendations for consideration by Mayor and Council regarding City of Milton Board of Zoning Appeals processes and jurisdiction. Item #1 Limitations based on the

number of lots. The Board of Zoning Appeals requests to maintain jurisdiction over variances for multiple lots with the following conditions: Limit the number of lots that can be considered in a singular variance to a total of five per platted subdivision and site shall be characterized as a subdivision. The Board of Zoning Appeals requests that variances associated with multiple lots, greater than five be transferred to the jurisdiction of the Milton City Council in order to treat the Variance Request as a Modification Request. Please note this recommendation was passed unanimously by the Board of Zoning Appeals. Item #2, Stream Buffer Variances; The Board of Zoning Appeals requests to maintain jurisdiction over Stream Buffer Variances per City Code Article Chapter 14, Article 6, Section 5 with the following conditions: In the event that the applicant will be pursuing a tandem process of any of the following: Use permit, Rezoning, Site Plan Modifications, the Board of Zoning Appeals requests the transfer of the jurisdiction to Milton City Council in order to treat both variance requests as a Concurrent Variance. All Stream Buffer Variances approved by the Board of Zoning Appeals shall be conditioned upon approval based upon a specific dated Site Plan. Any change that would be of significant interest to the public will require the applicant to re-apply for a Stream Buffer Variance. The previously approved Stream Buffer Variance shall be null and void. Please note this recommendation was passed by a vote of 5-1. Hardship and Harmony; the Board of Zoning Appeals proposed the following revision to replace the current phrasing of Hardship and Harmony as independent bases for a variance. Please note, currently variances related to signage are addressed as a stand alone provision. Based on guidance from the City Attorney, we felt that the revised Purpose section below can adequately allow the BZA to continue to evaluate sign related variance. Article II Purpose; the board shall have the following authority to grant a variance from the terms of the Ordinance. A variance must be based upon credible evidence submitted at a public hearing before the Board of Zoning Appeals, demonstrating the following: A) The general purpose and intent of the Ordinance shall be observed; and B) There are such extraordinary and exceptional situations or conditions pertaining to this particular piece of property that the literal or strict application of the City's Ordinance would create an unnecessary hardship due to size, shape or topography or other extraordinary and exceptional situations or conditions; and C) Such conditions are not the result of actions of the property owner; and D) These conditions existed at the time of the enactment of the applicable Ordinance or Ordinances; and E) Relief, if granted would not cause a substantial detriment to the public good and surrounding properties; and F) That the public safety, health and welfare are secured and that substantial justice is done. Please note this recommendation was passed by a vote of 6-0. We had one member not present. Item #4, Further Recommendations: Regarding the special needs of equestrian properties, presently, it appears that the Ordinances for the City of Milton do not adequately address the need such as; 1) the extra square footage needed for dressage rings and 2) the landscape buffers of the current Ordinances do not address pasture land. We suggest that standards be created for a Use permit to address this need. Note this was not formally voted on by the Board, but was discussed during our work sessions. The Board of Zoning Appeals decided that it was important to provide the above recommendations to the Mayor and City Council. These recommendations will guide the Mayor and Council as you proceed through your due diligence of reviewing the processes. Thank you for allowing the Board to develop these recommendations for your consideration and the opportunity to present them to you this evening. We look forward to your response. As appointed members of the Board of Zoning Appeals, we continue to support and serve the City of Milton, Mayor and Council and respect your decisions as the law making body for the citizens of the City of Milton.

Mayor Lockwood:

Is there any public comment on this item?

Deputy City Clerk Messer:

We have no public comment on this item.

Mayor Lockwood:

Are there any questions from Council for Sandy Jones?

Councilmember Thurman:

I have one question. When you all discussed the limitation based on the number of lots; did you discuss at any time whether or not it should be an exact number or an exact number and percentage. My thought is five is not a

whole lot of lots if you are looking at a two hundred lot subdivision but four is a whole lot of lots if you are looking at a ten lot subdivision, so did you at any time discuss whether or not if any time it exceeded ten percent of the number of lots in a subdivision is that when it might also require it to become a modification rather than allowing it to come before you all.

BZA Chairman Sandy Jones:

Excellent point and actually we did not evaluate it on a percentage but I do agree and understand the rationale for that and I think that is part of your due diligence and something that you may want to look at. We felt that looking at five lots in a typical, not just a street type neighborhood but where you have multiple lots in forty fifty plus where it would be at least looking at ten percent is maybe the informal discussion that we would look when we did toss around numbers. Our intent was to limit the total number that could be brought forth and to have that be for a particular neighborhood. We did not want to have a developer or somebody that is coming in, this be routine process or come in for five lots and then come in for five more so we wanted to limit it to a subdivision. I think looking at the total percentage is the criteria that would be a benefit to look at for this.

Councilmember Thurman:

Personally, I would like to see that if it was a greater of either five lots or ten percent of the total lots of a subdivision then it be brought in for zoning modification, so if you had a subdivision that is only thirty lots then if it was three or more it would have to be brought in.

Mayor Lockwood:

I would agree that Councilmember Thurman did bring up a good point. I think we should look at that as we move forward. Any other questions from Council.

Councilmember Thurman:

I assume the City Attorney has looked over all of this wording, especially the changing of the Article 2 Purpose Statement.

City Attorney Ken Jarrard:

I was with the Board as they deliberated on most of these although I was not with them at the last meeting, but my partner was. Certainly, I have been involved and I am mindful of these modifications. I am just waiting to hear what the Council wants to do with respect to instruction to me, if you are ready to make instruction this evening or whether you want to think about it and come back at another meeting. That is up to Council of course.

Mayor Lockwood:

Is there any other comments?

Councilmember Tart:

I have a couple of comments and a couple of questions too. I am in agreement with a lot of this and appreciate the hard work of the BZA. The first question has to do with the "hardship and harmony" as I am reading this it seems like harmony as a tenant by itself has been removed.

City Attorney Jarrard:

Councilmember Tart that is exactly right.

Councilmember Tart:

Ok and then I would agree with Councilmember Thurman as far as the recommendation as far as limitations based on the number of lots. Then that takes me to Stream Buffer Variances; and that is where I have a little heart burn still. Let me just give you a little background of where I stand. I am ok with the BZA considering Stream Buffer Variances that are typical for the BZA to consider but there have been a number of Stream Buffer Variance request that have come before this BZA that have been a little "A" typical I would think. For instance if a home has been there since 1920 and it is on a lot and the lot is shaped a certain way and now they want to put a deck on

the back of it and that automatically puts them in a Stream Buffer because the house is basically built in a stream buffer. That is something that would typically go before the BZA. Unlike (lets take a first example) a development that failed to list (whether it be the city or the developer itself) failed to list a stream on a property, a rezoning was given for that property and subsequent to that a buffer Variance request was asked for. That to me needs to come back before the Council because it was almost as if (and I am not saying that it was) but if the Council made a decision based on information they thought they had before then and that information changed then it needs to come back before the Council and not the BZA. So that is something that is not addressed here. I also do not see it addressed as far as the appropriate nature of the variance request that would be considered. In other words if a whole development, lets say a stream ran through the middle of the Sembler Development; that would come before BZA the way this is written and I am not so sure I am comfortable with that and I guess I want to defer to Councilmember Thurman. In your work on the Fulton County BZA, what type of stream buffer request did you guys hear?

Councilmember Thurman:

We heard them all. We heard a lot of them from the Chattahoochee River too, which are very critical when it comes to that, but I think one like the Sembler would come before us, the way I read this because they would have to get a rezoning on the property or a site plan modification so it would always come before us.

Mayor Lockwood:

Yes, if it is concurrent with any rezoning or site plan modification. Ken, do you have any comments based on your other jurisdictions.

City Attorney Jarrard:

Let me address two parts of that. First, of all I know the Board was interested in responding to the concerns that you just laid out with respect to the "A" typical Stream Buffer Variance that may have a simultaneous, either a site plan approval or rezoning certainly the Board wanted the ability to transfer that to the Council. The notion being that when you get one that has competing authorities looking at it; it needs to be before one and not two. The hard part is the second part of your question and that is how do you craft a code that catches the tough cases. That is hard to do because that is in the eye of the beholder what is the tough case and what is the sensitive case, what is the difficult case and I am not used to it being segregated that way. I am typically used to one Board getting buffers, now what I have seen is that a Board gets the variances like the BZA and then has a first right if appellat review at the next Board above which would be you and I have seen some jurisdictions do that as well. That is before they go on to superior court and that would make you as the final decision maker with respect to variances.

Councilmember D'Aversa:

How would that process work? Who would bring that appeal?

City Attorney Jarrard:

Typically, either the applicant who is denied or quite frankly standing with respect to that can be broad, any aggrieved party can bring it and the standing requirements with respect to who is an aggrieved is fairly comprehensive. It is somebody who that has, enjoys the use of the stream.

Councilmember D'Aversa:

Well because in the instance that Councilmember Tart was referring to, it would have needed to be someone other than the applicant.

City Attorney Jarrard:

Let me go even further, it can even be (and this gets a little bit odd) but it can even be the governing authority of the municipality itself can bring the appeal. I have seen jurisdictions where they literally have found that the lower tribunal the Board got it wrong and have tendered the appeal themselves to get it up to them and of course you may say well doesn't that or doesn't that make it a forgone conclusion that it is going to be overturned; they have

a right of appeal to the superior court. If they get it wrong. I am not suggesting that is where this Council wants to go, I am just saying I am not used to seeing really tough technical cases going one place and not so tough more straight forward ones going to the other. I am not used to seeing it bifurcated that way. I am use to seeing one tribunal having it all and it either going to superior court or there be a right of review to another entity above.

Mayor Lockwood:

Typically, would you see it in our case go to one Board such as the BZA first unless we had or it was in combination of some of these other items?

City Attorney Jarrard:

Probably so. Once again, I think that the Board attempted to address what they thought was the biggest concern you all had which was this notion of concurrent tandem actions going forward without there being any kind of a way to get them together.

Mayor Lockwood:

Is that something that staff could help us see through if that were happening or if somebody was trying to do that. If they smelled something that did not smell quite right?

Councilmember D'Aversa:

I sort of like that idea of a veto power. Not to take any authority away from you guys, but if there does need to be a citizen opportunity for some sort of a grievance if that could be articulated properly in the Ordinance, would that solve this challenge then we do not have to worry about things unless there is a grievance brought forward.

City Attorney Jarrard:

Again it could. Right now, you have that it basically goes to the Board of Zoning Appeals and then they make their decision and their next stop is superior court. That is the way it is right now, so what I was just talking about (hypothetically) would be a fairly radical change to the way it is right now because now your riparian buffer variance process in Milton is a two step process. The BZA then the Council then an appeal in superior court.

Councilmember D'Aversa:

But, would it have to be that way. I guess what I am suggesting is does it have to come before the Council if there is no grievance in place.

City Attorney Jarrard:

Oh yes, you are right; that would be an appellant route that is correct it could stop right at the Board.

Councilmember D'Aversa:

99%, I assume would stop at the decision of the Board.

Mayor Lockwood:

Does that open the door to.....?

City Attorney Jarrard:

But that is always the argument against that because then it does not stop. Typically right now what happens is one side if there is opposition walks away unhappy from the variance process. They will not walk away now because it is real cheap to file an appeal to you. It is a lot more expensive (quite frankly) to go to Superior Court. They have to be in front of a judge and get a lawyer.

Councilmember D'Aversa:

You probably addressed this, but I will ask it again just for my own clarity. Have you seen jurisdictions have that appeal process? It seems to me like that would be to the benefit both to the community as well as the applicant.

City Attorney Jarrard:

Right; again I am not trying to suggest that Forsythe County is the end all be all to Stream Buffer Variances because that will just draw smirks, but yes I have seen that. That is the way it is done in Forsyth County where it is the Zoning Board of Appeals and then it is to the County Governing Authority and then it is to the Superior Court.

Mayor Lockwood:

Would there be some type of hybrid where; lets say it went to the BZA for the final decision but if they made a decision that a super majority of the Council or citizens or staff brought it to our attention and then a super majority of the Council felt strongly against it that would kick it back into our prevue.

Councilmember Thurman:

Any time that somebody does not like the BZA's decision, they just throw it back to the Council then it seems like you are almost taking away the BZA's power to an extent and there decision making authority. You know you could have one BZA member who decided it did not go they way they voted and automatically bring it before the Council each time.

City Attorney Jarrard:

That is correct, that is what you are doing because what happens is the BZA is no longer the final decision maker with respect to the local jurisdiction. It is the Council or in the situation in Forsythe it is the Board of Commissioners.

Councilmember Hewitt:

Have you seen it abused?

Councilmember D'Aversa:

Not if you have a good governing body.

City Attorney Jarrard:

Have I seen it abused? Yes and no because what happens is; at least the process that they have up there is the appeal gets filed from the lower tribunal and the Board of Commissioners basically has one meeting where they decide whether or not they want to hear it at all. And of course if they decline to hear it, that is an automatic affirmation of the decision down below. If they choose to hear it then they have another public hearing where the parties get to do the whole dance over again a second time that they had previously done down below.

Councilmember Tart:

How would you feel about that Sandy?

Mayor Lockwood:

Let me jump in and also I do not know if you can speak for the board. I just want to clarify that.

BZA Chair Sandy Jones:

We do share your concerns on the issue that we have seen come up where things have gone through separate paths and we tried to address those by having if anything looks like it is going to appear to go before a any type of concurrent process to transfer that jurisdiction and sometimes we do not know that going into it. It may be something after the fact where a site plan changes where something is omitted and that is why the other condition that we have now put on our buffer variances and that they are tied to a specific site plan and any modifications that would be of substantial public interest our variance ruling at that point is null and void. To keep someone from basically taking our approval and then moving forward with and making modifications based on that, so we have tried to address that. I speak for myself as an individual board member. My fellow board members are here if they would like to speak, but from my stand point, that concerns me a little bit on what it does to the decision making authority of the board. We have an appellant process that is in place now. Information is provided,

information is presented and if there is any type of substantial omission that has caused an error in our ruling. That transparency comes out in the appellant process, so I am not sure what adding another layer in this appellant process would accomplish. We have been appointed by our respective individual Council Members and we take that responsibility and our due diligence very seriously. It just leads to almost an abuse of the system and I do think that it would significantly undermine the decision making of the BZA and at the end of the day then why do we even need a BZA. Why wouldn't everything just come before Council and the members of Council then can evaluate and make a determination.

Councilmember D'Aversa:

I would not take it to that level because we are talking about rare instances of appeal where we would say that we would want to hear the appeal and we would have to approve actually hearing that appeal so my assumption would be that would be very few and far between. I think where we give ourselves and our citizens an opportunity is that admittedly that superior court appellant process is very expensive, so the community does not have an opportunity for appeal at this point. The applicant would be able and in a position to appeal and pursue the superior court and the money would be a little different issue with the applicant so it is really a kind of deterrent to the community coming forward knowing something or bringing something forward if it became apparent after the ruling and then there is no process for the community unless they spend funds to go forward with the superior court appeal.

BZA Chair Sandy Jones:

As the City Attorney mentioned in our process there is one party that walks away unhappy because the ruling did not go according to the way they would want it to go and when you have two parties that come each are very passionate on their side and what they would like to see move forward. We are a small community and we recognize and every ones voice counts and like I said I just question how that process would be managed because individuals would come forth because they were not pleased and I understand what you are saying that there would be some evaluation criteria to see whether you are going to hear or whether you are not going to hear but I do think that will erode the over all efficiency and the decision making for the BZA. One question that I would like to ask, you mentioned there is that over ruling process from a deferment standpoint, we have brought up specific areas that we would transfer jurisdiction. Are we as a board able to if we felt defer an individual case? Can we on a discreet case by case basis make a jurisdictional transition?

City Attorney Jarrard:

I think the question that Sandy is proposing; although that is not in the recommendation, because the recommendation is within the confounds of whether there tandem or concurrent matters but if there was just a variance case or riparian variance case that was just of a nature; just in general if they could transfer? We would have to draft that carefully. You would just need to make sure that the decision to transfer was not (and I hate to use this work) but arbitrary, in other words; you do not want there to be any injection of politics and you cannot let that get infused in your process, so we would literally have to tether it to some sort of a decision. Either from the community development director would need to make a decision that this is a variance of such a kind that it needs to go directly to Council. We have to somehow have a trigger in there that is removed from the politics of the situation before we could do that.

BZA Chair Sandy Jones:

Going back to your question with the appellant process and giving citizens a next step without going to court, one of my concerns is right now the process relatively speaking is pure in that we are not elected officials. We are appointed and our goal and our job is to maintain the integrity of the laws of the City of Milton. We are not representing any special interest. We are not representing any special communities, any jurisdictions. We are here for the citizens of Milton to protect and preserve their laws and evaluate on a case by case basis. Whether there is valid merit to make an exception due to exceptional situations and I do not know how you could sanitize the system in that appellant process to keep out those outside influences without having some of the political issues creep in.

Mayor Lockwood:

Can I break in real quick? I realize we do have some public comment that has come in since we started and I will be glad to hear that from a couple of member. Fonda, is there public comment on this item?

Deputy City Clerk Messer:

Yes sir, we do have a public comment. Mr. Scott Kilgore.

Public Comment:

Scott Kilgore:

Good evening Mayor and Council I am Scott Kilgore and I am a member of the BZA. I am the dissenting vote on the water quality stream buffer issue. Water quality is a very complex science as I have learned in the last few months. We had some training on it, we had a two or three hour training session on it and I feel like we are just seeing the tip of the iceberg on the whole question of water quality and stream buffers. It is easy for teams of water quality engineers to razele dazele because of the complexity of the science and because they are true believers in their solutions; this is just my opinion; obviously I am the dissenting vote on this but I just believe Mayor and Council are better equipped to see through the razele dazele and better protect our rivers and water sheds than the volunteer members of the BZA and I am speaking for myself. I believe that you all have better experience and more expertise in these matters. Many of the stream buffer cases were the simple and straight forward, we have also heard very complex ones, very controversial ones and personally I have trouble dealing with the simple cases and I appreciate the fact that we are trying to craft a solution that would direct those to us but I just think that those should go to our elected official. I think this better protects our citizens and better our city's water quality. I did have one question for our City Attorney. You were talking about if an aggrieved party wanted to appeal to a higher level but I also heard it discussed and I think the Mayor mentioned this; what if a super majority of a Council felt that we got it wrong in a case; almost a pull rather than a push from an aggrieved party; would that be something that you could limit it to that. That it is not something that an aggrieved party could appeal necessarily to Mayor and Council but that Mayor and Council could re-hear a case if they felt that it was going to affect our water quality in a negative way, that perhaps a decision that they did not agree with that they wanted to re-hear.

City Attorney Jarrard:

That is something we could look at if the Council would like to send me to look at that I would be happy too. I am not sure if we could carve it such that only one entity in the entire universe of affected parties would have the right to appeal but I would be happy to give that some looking into if the Council wants me to.

Scott Kilgore:

I think that would keep the simple cases coming to us and really all of them just if the Mayor and Council wanted to have a chance to override that. I would feel more comfortable with you all being able to take the reins on something that you felt in disagreement with. That is all I have to say.

Mayor Lockwood:

Thank you; I believe we have one more public comment.

Deputy City Clerk Messer:

Walt Recuke

Walt Rekuc, 615 Scarlet Oak Trail, Milton Georgia

Thank you Mayor and Council. I appreciate the opportunity to speak. Here is an example of the situation we get into. Here is a perfect example of where you have someone saying they disagree with this and now you are going to have somebody else and say why they agree and I do not know how long your meetings are but ours are getting long enough as is, but I guess if you need longer meetings you will have them but one of the problems we have on stream buffers, we have two engineers on our staff. We have some folks that have construction back grounds as well. We do hear issues, I know Fulton County really when you were there just started hearing stream buffers because the law was fairly new and law at that time was really not increased it was originally the state law which

was twenty five and not far after the division of the cities around that time they started making it larger buffers in the south side and in the north side it had not changed so some things have happened with stream buffers. I am also on the sewer water conservation district; any jurisdiction in Fulton County has to come before our board to hear a stream buffer variance within the EPD corridor so in addition to reviewing here in Milton I have to get to also review a lot of them at Fulton. The other issue Councilman Tart mentioned; are there tough decisions, can there be problems, well the tough ones that were really discussed the ones that were encroaching into the twenty five foot stream buffer were actually heard by the Army Core of Engineers and the EPD with biologist and engineers and they are the ones who actually approve them before that every came to our board, so one of the things that everybody has to understand there was some other jurisdictional review beyond our government that was giving us input on what helped us make a decision. I am not sure if that was really brought up to everybody to make sure they understood why a decision was made. Lastly I have been in front of Forsythe County and I did have a variance granted to me and then one home owner came up and said "I disagree" there should have been a further review of why that person should have been heard or not heard but I can assure you anybody in this community, we have a fairly smart constituents and they understand very quickly if they do not like it; heck just appeal. What does it cost? One hundred dollars? Three hundred dollars? No problem, we can chip it in our homeowners association, we will go fight it. I am just going to tell you it is going to make things a lot more politicized and you might as well go ahead and disband us because that is what is going to happen. Any controversial issue that occurs is going to be coming back to you and that include the ones that we deny and say like we have just recently with a basketball court in a side yard setback and basically the homeowner, we denied him; he would probably appeal and come to you, so I am just saying that it works both ways. You may say you are going to hear things from one side but you may actually wind up hearing from both sides, both the ones who get approved as well as the ones who get denied, so just be prepared. I appreciate it and where in the budget is our mileage for our work? Did that get missed; I just wanted to ask that question?

Mayor Lockwood:

Thank you. Again, we keep going around and around. I would like to interject and ask Alice Wakefield if you have any comment in past experience.

Community Development Director Alice Wakefield:

It is been my past experience that variance request such as stream buffers go directly to the BZA as the appointing authority because they said quazi judicial and you do not have the probability of political influence and if there is an appeal from that decision it goes to superior court.

Councilmember Thurman:

When I started on the Fulton County BZA (back in the dark ages) we actually heard all variances and the best thing they did was when concurrent variances went along with the zoning because a person would bring forward a rezoning and if it had a variance it went to the Board of Commissioners for rezoning and then it came to the BZA for a variance and that was disastrous, so I agree with the fact that if it is a stream buffer that is at all part of rezoning it needs to be heard by one group of people. I would not like to throw in there the appeal to the Mayor and Council. I think you are automatically putting politics in something that should not be a political decision. I think we have empowered these people to make the decisions and we have to trust them to make the best decisions they can and if people disagree they can take it to superior court.

Mayor Lockwood:

I feel like we maybe are over analyzing this and trying to pick that one situation where something might happen. I feel like the BZA has addressed combining it with another issue or rezoning or site plan modification or whatever so we will probably get 99% of the cases taken care of and I see everybody's points. I would recommend the recommendations by the BZA. I would like to ask our City Attorney who I know has been involved in that; is that something you would recommend as a good thing for the City of Milton to adopt?

City Attorney Jarrard:

Mr. Mayor let me say this; I have certainly been involved with them and I know what they have been doing and the hard work they have put into it. This is a policy statement from and I am not here to say; this is what I support but yes there is some pretty good stuff in here.

Mayor Lockwood:

I am not asking you to support it; I am just saying could you recommend that versus some of the other comments we have been discussing as our City Attorney.

City Attorney Jarrard:

What I would request of you is; first of all the Council needs to tell me I guess whether they except the recommendation as; this is the document that we want to move forward with and what I would like to do is work with Alice and put this into a modified format for a modification of your code.

Mayor Lockwood:

I think that Councilmember Thurman had a good point to change the five lots to five lots or say ten percent of the subdivision whichever is greater.

Councilmember Thurman:

Other than that I support all of their recommendations.

Mayor Lockwood:

I guess what I am saying is I am throwing that out with that change then look to the Council; is it their desire to move forward with that.

Councilmember Tart:

I think it is important that we; I think some of this discussion has gone down a road to where it is if the Council or member of the public does not agree with the decision of the BZA then it would be kicked back up to us. Now; I respect checks and balances and I feel that we appoint the members of the BZA. If we see a trend where we would have looked at the decision differently than them then we have several options at our disposal; we can offer training if that is what we think they need and in this case and in some of the cases they did not even have stream buffer training or they got it very early on in the city's inception and they were given more training in that regard; or we can replace the BZA member so there is a system of checks and balances there. I am on the fence with regard to it being bumped up to us in the appeals process; however this whole thing started from looking at the process. Not necessarily the decisions that were being made but the process and the BZA has done a very good job with addressing 99% of the problems we were having with the process; however I still contend that right now a rezoning issue could come before the Council for whatever reason the stream would not be noted on that site plan whether it be an error of staff, whether it be an error of the developer and then when all is said and done and we grant that rezoning and grant that site plan approval then oops there is a stream so then it goes to the BZA. That should not happen; it should have to come back before us. That is my only main hang up with this.

Mayor Lockwood:

I certainly respect and understand that although I think in the future more than likely there is not going to be too many rezoning or issues where it is combined with a stream buffer looking for a variance or something on a stream buffer and again like I said maybe staff can help sniff that out if they see something like that coming.

Councilmember Tart:

Well that was an identified error before; let's address the problem. If that was an error that was noted before and it was an error in processes then this is the opportunity to fix that.

Councilmember Thurman:

Currently we cannot hear a stream buffer; they automatically go to the BZA. In this case we would hear them if it was part of a rezoning if it was an error that was found out later it would still have to come back to us because it was part of rezoning. Right now we do not hear any stream buffers even if they are part of rezoning.

Mayor Lockwood:

Or if it was an actual error it would come back.

Councilmember Tart:

What have other jurisdictions done about that; lets say that you had a parcel that came before the Council or the Board of Commissioners that asked for a certain density that was not contingent upon there being a stream running up through the middle of it and the governing authority granted that density and granted that developer what he is asking for and subsequent to that all of a sudden there is a stream there.

City Attorney Jarrard:

I can answer that. What will happen is; the way the BZA has crafted this is it would go back to the BZA; that is who is going to have stream buffer jurisdiction but the criteria they have looked at for instance number c on the last page "such conditions are not the result of actions of the property owner". Now let's walk through the scenario you just painted; what's likely going to happen is; they will have presented to the Council a zoning site plan and if they overlooked a water or a riparian boundary then they will have laid out a site plan that quite frankly created the need for the variance. They are then going back to the BZA to take care of; well that is a real good argument for the BZA to say; Wait a second who laid out the subdivision? "We did"; and now you are coming back to us saying you need a variance because of a subdivision you have engineered and designed, we are not inclined to give you that because you have violated tenant c of our variance criteria; you have created the condition upon which you now you need a variance and all of a sudden that is going to send the developer to figure not to need that anymore. I am not suggesting to you that may not be exactly how it works but I am suggesting that the BZA has I think worked to create a scheme where they will be able to capture that situation right there. Does that make since what I am saying to you.

Councilmember D'Aversa:

It makes since, but I think to add on to what Councilmember Tart has said; the whole reason we got to this position of having this discussion is we have certain policies and ordinance that we put into place as the governing body and those have to be adhered to and enforced by our boards. Not just the BZA but all of our boards and the concern was that in a couple of instances and I think this is how we got to the point where members of your board came before us in the first place and this all came up was that that did not happen. Now we have the same just modified ordinances and I do not want to have the responsibility of hearing the appeals. I think it would have been limited but I do not want to have that responsibility necessarily either but I want to know that what we have in the form of our ordinance can be adhered to and there will be that check and balance and not just a check and balance where we go replacing board members or making decisions after the fact. I want those decisions to made and protected ahead of time.

City Attorney Jarrard:

I could not agree with you more but it is important to understand is what the Board of Zoning Appeals is recommending to you is a fairly radical change in the variance criteria than exist right now and has existed with respect to those other ones.

Councilmember D'Aversa:

I see that and I think they have done a great job of working through this.

BZA Chair Sandy Jones:

If I can make a comment; one of the things we tried to do and not only did we de-couple and remove the independence of hardship and harmony but we went through the effort to re-write that section; is we understand

and we feel the same way about things getting in we have tried to establish some checks and balances to patrol the process; to keep things from coming back. That is what we have tried to do as tight as we can but still; you cannot be prescriptive to the point that you can capture all conditions and all situations. We have the same concerns that you have Allen on something coming back and something being omitted and that is why we went through the additional due diligence and went to this detail and this effort.

Mayor Lockwood:

Going back to some of the public comment, again it boils down to does Council make the decision or does the BZA and I believe we have some really good talent on the BZA and as Councilmember Tart said has already trained but can receive more training and I feel like can spend more time studying these cases before they come up and hopefully give a better decision than we are able to, so at this point, per Councilmember Thurman's suggestion change five lots or 10% whichever is greater and Councilmember Tart had some comments and I do not know if you are comfortable yet or not with the stream buffers but other than that I would like to put that out and get a feel from Council for approval or not on those changes.

Councilmember Hewitt:

I would support this document with the addition of the 10% and I would just like to reiterate that as Council we have a lot of things on our plate that we have to look at and deal with and I am not saying that this is all they have but this is all they have. Their agenda's are typically five or six items; if that and I think we have people on there that are more qualified than me to make some of these decisions so I support that with the 10% change.

Mayor Lockwood:

Ok. Karen?

Councilmember Thurman:

Yes.

Mayor Lockwood:

Tina?

Councilmember D'Aversa:

Yes

Mayor Lockwood:

Alan?

Councilmember Tart:

Yes

City Attorney Jarrard:

Mr. Mayor I will work with Alice and we will work to put together a modification to the Milton Code to make these amendments and bring it back to Council for a formal amendment.

Mayor Lockwood:

Ok and I just want to thank the members of the BZA for all of their hard work and time. At this point I would like to change item number six with item number four. We have citizens here that might want to make public comment on item six.

Deputy City Clerk Messer read the next agenda item.

DISCUSSION ON CHANGES TO RADAR PERMIT AND SPEED LIMITS

Public Works Director Dan Drake

- Talked about a proposal that we would like to sign over to the Department of Public Safety through the Georgia Department of Transportation to modify our existing radar permit.
- The existing roads that the Department of Public Safety is allowed to run radar on are posted at 45 miles per hour and the radar permit is the same.
- If the posting and the radar are equal then the Department of Public Safety is allowed to radar.
- If they are not and we had a few that did not match; then they are not allowed too.
- We have three school zones, on providence and on 372.
- We have a few residential streets at 25 mph.
- A few collector streets at 35 mph.
- A few streets at 40 mph.
- Changes to the speed limit; there are three categories of speed changes.
- Reduction in speed of ten miles per hour.
- There are four locations; state route 372, Freemanville, Cogburn and Bethany Bend are going from a posted speed limit of 45 to 35.
- Ranchet Road is going from 40 to 35.
- These decreases have been generated by request from citizens based on our work order management system.
- We made a determination as to what we think we can get from GDOT as far as reduction; some at five and some at ten.
- To show GDOT that we are not only looking to reduce some of the speed limits we selected two roads; New Bull Pen Road and Mountain Road to be increased from 35 to 40 based on the running speeds there.
- This lets them know we are looking at both sides.
- We will see what GDOT does with the gravel roads we are adding to be permitted at 25.
- Right now state law says that gravel roads are at 35 mph.
- Need to know which of these are more important to Council because we are going to GDOT informally and say; which of these do you think we can and cannot get passed.
- The ones that were a little more difficult where the 85th percentile which is the number one criteria for how we set this and if they are not close to where the posted speeds are we will have to look at other factors and conduct some additional studies.
- It is really important that we get from Council which roads a more important and if there are other roads that we have missed and need to take a look at.

Mayor Lockwood

- We will now have public comment.

Jennifer Fuller, 13499 Spring View Drive

- Represents the homeowners in Spring Valley and also on Bethany Bend.
- Has talked with the Mayor about the speed limit and our concern on our street.
- Currently it is 45 mph.
- Through all of this process she learned that drivers cannot be ticketed unless they are going at least 10 or 11 miles over.
- This people driving at 55 in a residential street.
- I received word that our street was being considered for reduction.
- Windward Parkway is 35 mph and it is a divided parkway and there are plenty of light to stop people and slow them down.
- People admit that they choose Bethany Bend instead of Windward because they can drive Bethany Bend with no lights and it is all residential.

- We would really like to see it lowered to 35 mph.
- Something serious is going to happen if people do not slow down.
- She pleads with Council to consider it for 10 mph reduction.

Mayor Lockwood

- For those who are not familiar, Jennifer's area is on Bethany Bend.
- It is going from 45 to 35 mph.

Public Works Director Drake

- We will first go informally to GDOT and see which ones we can get through and which ones will need additional studies.
- We are asking Council if we are covering all of the complaints we have been hearing about and we think we can get reduction on some of these, but we cannot guarantee what we will hear back from the Department of Public Safety and GDOT.

Mayor Lockwood

- Asked Dan if he was looking for Council to prioritize them or is GDOT going to prioritize them for us.

Public Works Director Drake

- They will give us comments, but if there are any that we really need to fight for, we would need to know that so prioritizing would be helpful.

Mayor Lockwood

- Asked if Council had anything to share.

Councilmember D'Aversa

- It is her understanding that what GDOT looks for in these traffic studies is to support us in these increases and reductions.

Public Work Director Drake

- Correct.
- Done spots/B studies and some of the results do not reflect what we are asking for.
- Because of that we will have to go back and look at other criteria such as the roadway characteristics, shoulder condition, grade, alignment and sight distance.
- We will have to write some convincing arguments.
- The pay speed is another data point that GDOT looks at.
- The environment works against us on most of these roads because they are so open and drivers feel inclined to speed on them.
- We will focus on parking practices and pedestrian activity.
- Will look at one to two years of crash experience.

Councilmember D'Aversa

- The majority of instances we have heard from citizens are Cogburn, Hopewell at Hopewell Plantation, Hopewell Road, Freemanville Road, Bethany Bend.
- Are the primary areas such that GDOT will support it based on the traffic study?
- Kudos to Public Works and staff for all of the hard work.

Field Services Manager Roddy Motes

- All of the roads on figure three with the exceptions of the gravel roads will be accepted.

- The Cogburn school zone will be added with no questions asked but the Freemanville we will have to fight for.
- Freemanville right outside the backside of Milton High School.

Councilmember D'Aversa

- Asked if that was because of the study that was done.

Field Services Manager Motes

- That is because apparently they fought for the front side not to be zoned either.
- They were under the impression that the schools need to abut the roadways.
- Since these schools have a special road that feeds all of the schools internally, except for the one elementary school which already had a school zone, they did not want to extend the school zones because what Fulton County had requested was an extra large school zone to encompass the high school.
- Since the DOT was strapped with an existing school zone, they would not take it away but they would not add to it either.
- They said up front they would not give us the backside.
- Will still present an argument for the one in the back.

Councilmember Thurman

- It is because of the distance from the school.
- The way they look at it is that it fronts one road.

Field Services Manager Motes

- Their attitude is the speeding would take place on the internal road.
- There was no reason to add an extra school zone on the outside of the parameter of the center road.
- They are going to look at things like there is a traffic signal and a stop sign so we have two features that already slow traffic to what the school zone would probably already be when they do their tube test.
- Will try to convince them that the topography and the changing surroundings of the area are going to be warrant enough.
- They will give the nod on a few of them and then they will say no way, we will need extensive supporting data.
- We will have to go through all of the accident history and may have to try to pull some accident history out of Fulton County.
- We will have to have speed studies.
- They are just not going to support it.
- They will support the 25 Residential Subdivision Streets as long as they are point 2 miles and longer.

Public Works Director Drake

- To clarify, they look at the 85th percentile as the number one criteria.
- The 85th percentile speed does not support it and that is when we have to go to secondary.
- Anything that is 7% grade cannot be radared.

Councilmember Thurman

- Freemanville and Bethany are some roads that have some sight distance issues and are very curvy.
- There have been enough accidents on those that it should support lowering those two roads.

Field Services Manager Motes

- Will have to compile all of those accidents on each roadway and give it to DOT.
- Will present what we have now first and then we will do a drive through together, then they will get back with me and say these are reasonable, do you have data.

-
- The ADT is a twenty four hour volume of our roadway and those are great numbers when we do any type of planning or development.
 - It is a good number looked at for left turn, right turns, all type of construction data that we would need to implement for speed limit.
 - The speed limit is the posted limit of 45, the 85th speed percentile is; when we lay tubes out there and to get a bench mark for this City; these tubes stayed out for two weeks, so he has up to six days because he takes the data from Tuesday, Wednesday and Thursday.
 - A very good description of what the 85th is if we take the speeds of all of the motors that are ranked from the slowest to the fastest, the 85th speed percentile separates the slower 85% from the 15%.
 - The average speed would be the 50th percentile.
 - That is where the 10 mph pay speed ranks it between 46 and 55 mph and we have 70% of the volume of that roadway within that 10 mph pay speed so that means our speed limit is marginal.
 - We are basing it on what the typical driver drives and that is where we all miss the mark.
 - The DOT does not focus on the Georgia Law of the 10 mph discrepancy of when we can write citations.

Councilmember Tart

- So for example Bethany Road when the speed limit is 35 and the 85th percentile is 55, you are saying that is actually reason to raise the speed limit not decrease it.

Field Services Manager Motes

- There is a segment on Freemanville Road that the topography is horrible; it is curvy horizontals and it has a few verticals and basically there answer is have you put up signs and they base a lot of emphases on curve signs.

Councilmember D'Aversa

- Asked if we could post a different speed limit as a deterrent.

Public Safety Director Lagerbloom

- We would hate to have a deterrent that cannot be enforced.
- We cannot even stop them and tell them to slow down.

Mayor Lockwood

- Asked if there were any roads that Council Members have heard concerns about.

Councilmember Thurman

- It looks like we are only reducing Green Road five miles per hour.
- She thinks it should be the same speed as Crabapple Road.
- It is a cut through between Crabapple and Arnold Mill so it should be the same speed as Crabapple Road.

Field Services Manager Motes

- We cannot radar the section of Crabapple in our City?
- Apparently there was political pressures put on the State DOT and it had to do with the development of Crabapple Road closer to the Historical District.
- Someone went to the DOT Commissioner and they allowed the roads designed speed to be reduced to 35 mph which allowed the setbacks and most of the building processes in a closer ranking to the road, which forced the DOT to post the 35 mph limit although the roadway did not warrant that, so when he came here it was the first time he had ever seen stamped on the front of our radar permit an asterisk and when you read those asterisk. It totally omits us from running radar even though it is officially and recognized through the DOT that the speed limit is 35, there is a subsection that prevents us from running radar all the way to Five Hills. That whole area is off limits to us.

- Fulton County through some process forced the State DOT's hand to lower a speed limit the un-proper way.
- We want to do things properly.
- We go through the district office and we ask permission.
- They are our voice to the Department of Public Safety.
- The Department of Public Safety sets our speed limits.
- When they set them the state goes back and changes the state order.

Councilmember D'Aversa

- Asked if she read correctly with Hopewell Road at Hopewell Plantation Drive; which there was a pretty bad accident coming around that curve if you go from Frances across Cogburn and it turns into Hopewell and you travel it almost to Alpharetta and it seems like the speed is pretty there but she is reading as though they are not really driving that much over the 45.

Mayor Lockwood

- Are there any other areas of concern Council has heard about.

Councilmember Tart

- Asked if they would look at Sonata Lane.

Councilmember Hewitt

- Speaking for some of the people that have contacted him about the stretch on Bethany from Providence to Mayfield to lower the limit.

Mayor Lockwood

- Thanked them and stated we certainly want to do everything we can to keep our citizens safe.

Deputy City Clerk Messer read the next agenda item.

DISCUSSION ON HISTORIC PRESERVATION ORDINANCE

Community Development Director Alice Wakefield

- Council was given copies of the presentation as relates to Historic Preservation.
- Steven Samuels will be giving the presentation.

Intern Steven Samuels

- Background on how to best preserve Milton's Historic Resources.
- Outlined for you on what the Community Development Department is the best strategy for how to proceed.
- In 1995, North Fulton County conducted a Historic Survey.
- Since then many sites have been demolished or upgraded.
- If we inventoried them there would be many missing or altered to the point that it would be challenged to call them historic.
- Last year a group of residents created a Committee.
- They presented to staff and Ordinance to create Historic Preservation Commission.
- He was assigned to review the Ordinance and the survey and all of the processes that are involved in creating a Historic Commission.
- A Historic Preservation Ordinance establishes the criteria of how to designate a property or district as historic.

-
- The language set forth in the Ordinance is established by the state and regulated by the Georgia Historic Preservation Division which is part of the Georgia Historic Resources Department.
 - By adopting the Ordinance, then a local commission may be created and once the commission is created then they can acquire a certificate of appropriateness before any material changes can be made to the contributory structures.
 - Some of the things the Ordinance does or does not do.
 - The Ordinance does not do things like require permission to paint your house or review color selection.
 - It does not restrict the sale of a piece of property.
 - It does not require improvements to a property.
 - It does not pertain to interior alterations to a property; only the exterior.
 - It does not prevent new construction within a Historic District.
 - It does provide policy and a process for designating properties as historic.
 - It does protect the integrity of a Historic District.
 - The underline purpose is to protect and enhance property values and the aesthetics and heritage of a city.
 - We looked to our neighbors Alpharetta and Roswell, as well as other ones across the state we thought was similar.
 - Alpharetta has approximately 20 buildings designated as historic.
 - They use it to promote tourism through the city.
 - They have a historic map and walking tours but they do not have a Historic Preservation Commission.
 - They run demolition and upgrading through their DRB.
 - We feel Roswell is the best example for Milton.
 - They have a seven member Preservation Commission.
 - They have designated an overlay district which requires a COA if there is change to a historic structure.
 - Permits are withheld until the Commission reviews applications and the DRB, by their commission does not apply to detached single family residential development.
 - There are 114 Georgia Communities that have Historic Preservation Ordinances.
 - A study was done in 2004 and of those that replied to the study; 18% had their Ordinances or Commissions challenged in court.
 - Of those 67% of those cases ruled in favor of the commission.
 - It is very important to involve the public in the process to be effective.
 - Re-doing the survey that North Fulton County will have to be done because the conditions have changed.
 - Educating the public.
 - Determining the boundaries for the district.
 - The City then needs to draft a designation report for the Historic Preservation Division of the State of Georgia.
 - Holding public hearings regarding that draft designation.
 - Then put together the Design Review guidelines and then we can begin the process for residents to apply for their COA's
 - Staff recommends that Mayor and Council create an Ordinance that establishes a Historic Preservation Commission.
 - The ad hoc committee and Travis Allen particular were integral in putting it all together.
 - The draft that they submitted is excellent.
 - Secondary to the Ordinance would be that the staff recommends; beginning with the Crabapple Crossroads District and designating that as the first Historic Overlay District because there is a wonderful density of already existing historic structures.
 - There is already a fabric of history that people have bought into and we feel that it would be a successful first step towards historic preservation.
 - The new overlay will alter the authority of the existing Design Review Board in three ways.
 - The overlay will apply to new historical design guidelines and apply them to all contributory structures including single family residential.

- It will place authority to regulate contributory structures under the jurisdiction of the Historic Preservation Commission.
- The DRB will continue to review plans for non residential development and multi family development of non contributory structures in the Crabapple Overly District.
- Next steps would be evaluating the Ordinance that has been submitted.
- Surveying these resources.
- Would need to utilize the money already budgeted for this.
- Design guidelines need to be created.
- Staff recommends utilize and outside contractor to create those design guidelines.

Community Development Director Wakefield

- If it is the decision of the Council to move forward, she would like to make Council aware that staff will not be in a position to start a lot of the work until the end of summer or beginning of fall.
- Our priority now is complete the comprehensive plan.

Mayor Lockwood thanked Steven for all of his hard work on the project.

Councilmember D'Aversa

- Asked Community Development Director Wakefield if we go ahead and establish the committee can the committee not begin work on evaluating and have a moratorium on doing anything to the structures that have been identified as opposed to waiting.
- She fears that we risk having something happen to one of the structures in the interim.

Community Development Director Wakefield

- She does not see a problem with moving forward with the Ordinance to establish the commission and get in place the procurement process for selecting a consultant to do the design guidelines but she would have to defer the question regarding the moratorium to the City Attorney.

City Attorney Jarrard

- The City would have the right to issue a moratorium.
- The case law has indicated that a moratorium in and of itself as long as it is of reasonable duration is not a zoning decision and we could institute one for 30, 60 or 90 days and then if we wanted to institute one for longer than that we could provide public notice and have a hearing to institute it for longer.

Mayor Lockwood

- We would need help to craft the moratorium.

City Attorney Jarrard

- Would be happy to handle that.

Councilmember D'Aversa

- Would the commissions be by appointment from each Councilmember?

Councilmember Thurman

- It says that they must be residents of the City of Milton and a lot of our structures the people who own them may not be residents of Milton, but own property within Milton.
- Is there a reason that it has to be a resident rather than a property owner?
- If they own one of the structures then they have an interest in it.

City Attorney Jarrard

- Cannot think of any legal reason.

Travis Allen

- We took that language directly from some of the Ordinances that were already out there.
- The ones we looked at were Dahlonge and Roswell so a lot of the language is identical between those two.
- We did look at that and that is why we provided for at least two positions that would be appointed but those members would not have voting power.
- It is mainly because there are a lot of people in this area that does have historic knowledge and is an asset to the community but they do not live in Milton.

Councilmember Thurman

- Personally, she would like to see the seven member commission residents or property owners in Milton so if you did have someone who lived outside the City but owned a lot of property could also be appointed.
- We want to make sure it is people who have a lot of interest here and if they are a property owner then they have an interest in it.

Mayor Lockwood

- If a Councilmember wants to appoint someone who is not a resident but owns property they should be able to do that.

Travis Allen

- When we looked at that - say down the road and you have three people that are living in a retirement home or community that are probably experts on local history it would be a shame that at best only two could be on the commission so we were taking that into consideration by removing the boundaries.

Mayor Lockwood

- Stated that makes since and thanked Travis for all of his help on this.
- We will allow a late public comment on this.

Elyse Anderson, 565 Kensington Farms Drive, Milton Georgia

- On the issue of whether someone on this commission should be a resident or not having been involved in the Crabapple Master Plan and living and owning a business in Crabapple she feels that the people on this commission should be residents of the City of Milton because she knows some business or property owners who are not residents of the City of Milton and they tend not to be involved in things that go on in the City of Milton.
- They rent their properties out and whatever happens happens.
- We are dealing with the CPAC and this is coming up and both things are important and they both have to do with the City of Milton.

Mayor Lockwood

- Respects that and sees it as a concern and where he sees it as a problem. Let's say that all of the historic properties were owned by people who does not live in Milton and the commission was made up of only Milton residents then it might be a little unfair to have all of those properties represented by other people who basically have no connection to it.
- There has to be a balance.
- If we have seven members then, hopefully, the makeup of the commission would be a mixture.
- His guess that most would be citizens and not just property owners.

Councilmember D'Aversa

- We need an Ordinance or maybe a hybrid of what we have had in the past; for example, Travis is in my district and has been very involved but she does not know if he owns a historic structure or not.
- We need a balance where we have people represented and yet have Council have the opportunity to appoint people.

City Attorney Jarrard

- It may be a situation where each member has an appointment and nominating an at large member that is to represent out of City property owners.
- We can get creative on this.

Councilmember Thurman

- It calls for two at large members so we can use those to fill in the gaps of the appointed members.

Mayor Lockwood

- That way we would have seven members that are citizens and the two at large could be property owners or citizens so it would give them a voice.

Deputy City Clerk Messer read the next agenda item.

DISCUSSION ON A 5-CITY TRANSPORTATION PLAN

Public Works Director Drake

- Sara Leader will be presenting this.
- This is a five city study that is being presented to all five cities work sessions this month.
- Those cities are Alpharetta, Roswell, Johns Creek, Sandy Springs and Milton.
- There is an MOA that will be coming back next month for approval.

Sara Leaders Transportation Engineer/Planner presented the following Power Point Presentation.

North Fulton Comprehensive Transportation Plan

- Produce a plan that meets the future travel demand
 - Proposed land use and regional transportation network
- 5 North Fulton Cities and Atlanta Regional Commission (ARC)
- Review of Memorandum of Agreement
 - Funding Commitment
 - Regional Focus
 - Decision Making
 - Approval

Planning and Development of NFCTP

Purpose of the study

- Create goals, objectives, strategies to develop Regional Transportation network and land use for cities
- Produce plan to meet future projected travel demand
- Develop performance measures
- Collection and analysis of data
- Estimate cost and timeframes for project implementation

Who is involved?

- 5 North Fulton Cities of Alpharetta, Johns Creek, Milton, Roswell, and Sandy Springs

- Mountain Park may participate in the decision making for this study
- ARC will serve as Project Manager
- Fulton County isn't interested in participating

Process to start with City's signing MOA in July
Following slides to review contents of MOA

- Funding Commitment
- regional focus
- decision making
- approval

Funding Commitment

- Project total: \$1,250,000
- Federal: \$1,000,000
- Local: \$250,000

Regional CTP

Programmed in TIP for 2009

\$1 million Federal Surface Transportation Program funds for N Fulton Co

20% Local match required

Local Match share based on % of ARC 2007 Population estimates

FY 08 Budget

- Secure funds in budget
- Milton's share of Local match is \$23,782
- Send match to Administrative City
 - Johns Creek
 - Send by October 31, 2008

Need funds as a part of 2008 Budget

Milton's share \$23,782

Administrative City to provide 1 check for all local matches to ARC

Send by October 31, 2008

Regional Focus

- ARC County Plans for Regional Focus
- Goal of balancing:
 - Land Use
 - Mobility
 - Quality of Life
- ARC's Envision 6

-Regional plan is vital to this area

-Major congested arterials

-Shared by those living, working, and commuting through N Fulton

-Identify jurisdiction wide goals, needs, priorities

-Enhance Cities character through trans and land use coordination

-Balance Land use, mobility, and quality of life

-Envision 6 identifies regional development plans:

-Mega Corridors

-Urban Neighborhoods

-Suburban Neighborhood

Diverse Policies for a Diverse Region

Mega Corridors

-high intensity dev

-mixed use

-high-rise residential
-office towers
- These are the most intensely-developed areas in the region

Urban Neighborhoods

-Less intense mixes use
-Medium density residential
-Townhomes
-Small lot single family
-Established neighborhoods in distinctly urban areas

Suburban Neighborhoods

-Low density residential
-General commercial
-Open space conservation
-Established neighborhoods in distinctly suburban areas

Project Decision Making

- Project Management Team
- Project Policy Committee
- Stakeholders Committee

Teams and committees involved in Project decision making

Project Management Team (PMT)

- One City staff member appointed by Mayor
- 6 members total
- Roles:
 - Develop Scope of Services
 - Recommend Consultant
 - Provide Project Management for Consultant
 - Refer difficult policy matters to the Policy Committee

PMT

City Staff member appointment

-Public Works / Transportation

6 members – 5 cities plus ARC

Work with other cities and ARC

Daily Project management

Scope of services

Recommend consultant

Consultant management

Difficult policy matters to PC

Policy Committee (PC)

- 5-6 Mayors that will meet quarterly
- Roles:
 - Select Representatives to Stakeholders Committee
 - Provide policy direction
 - Approval of Draft Plan
 - Will determine their decision-making process

5 Cities plus option of Mountain Park

Reps to stakeholders committee

Policy direction

Approve draft plan

Determine decision making process

Stakeholders Committee (SC)

- Represent Public's Interests
- Make decisions
- Stakeholders include:
 - City Council
 - Citizen's Representatives
 - Chamber of Commerce
 - GDOT
 - CID's
 - Transit Operators
 - Environmental advocates
- Represent Public's Interests
- Make decisions
- Stakeholders include:
 - City Council
 - Citizen's Representatives
 - Chamber of Commerce
 - GDOT
 - CID's
 - Transit Operators
 - Environmental advocates

The City's Responsibility

- Scope of Work for study
- Provide local match funding
- Pay share of local match to Administrative City
- Appoint representatives to Project Management Team and Stakeholders Committee
- Mayors serve on Project Policy Committee
- Work together

PMT help develop Scope of work

Provide local match funding

Mayor to appoint representatives

Mayor to serve on PC

Goal of each city is to work together toward mutually beneficial arrangements

Study Approval Process, 5 Steps

1. PMT will ensure input of plan by SC
2. PMT will submit draft to PC
3. PC will review and submit revised draft to Council
 - Approval vote of four out of five/six votes
4. ARC receives 4 resolutions approving draft
5. Final Draft Plan sent to ARC

Typically County Commissions approve

In this case 5-6 different jurisdictions involved

5 step process to approving the NFCTP

1. PMT will ensure input of plan by SC
 2. PMT will submit draft to PC
 3. PC will review and submit revised draft to Council
- Approval vote of four out of five/six votes
4. ARC receives 4 resolutions approving draft

5. Final Draft Plan sent to ARC

Next Actions

- Bring resolution to Council in July 2008 for approval
 - Providing authority for Mayor to sign MOA
- Pay local match to Johns Creek in October 2008
- Mayor will appoint a representative to PMT
 - Selection of consultant in October 2008

Councilmember Tart

- We recently made changes to the Highway 9 Overlay in regards to buffers and building height
- Highway 9 is in the mega corridor and we would be entering into the MOU in regard to this.
- How would the policy group, composed of the mayor and other Mayor's affect the Council and what we are doing to protect the residents on Highway 9.

Public Works Drake

- Think of this as a feed back mechanism to ARC.
- They are the project manager on this.
- This is looking at the regional issues, whether it is regional land use or transportation.
- This provides us to take a look at the Regional Development Plan and say how we implement the RDP in our area and make decisions on how we implement with the transportation improvements that are going to be done on a regional basis.

Councilmember Tart

- So it would be helpful for us to feed into that policy.

Public Works Director Drake

- Absolutely; this gives the five cities collectively the opportunity to get feed back to ARC for the next round of these plans.
- This will require bringing it back to Council in July.

Mayor Lockwood

- We can take this draft and send back any comments if we could get this in electronic form.

Public Works Director Drake

- Any comments we can get now would be helpful because all five cities will be bringing their comments back to be drafted.
- One of the elements is the fact that Mountain Park does not pay into to this and we give them the possibility and the policy committee and it is up to the five Mayors and the policy committee to make the decision to bring Mountain Park into it.

Deputy City Clerk Messer read the next agenda item.

DISCUSSION ON FULTON COUNTY WATER AND SEWER RATES

Councilmember Tart

- On or about May 5th we received an e-mail from Commissioner Pitts and the Fulton County Commission based on the conservation of water that had occurred in the past year, there was a decrease in water usage which resulted in a decrease in Fulton County's revenue.
- Based on projected water sales Fulton County is not going to produce the net revenues it needs to be able to meet its bond debt service.

- Because of that the County Commission voted to raise the water and sewer rates by 15%.
- A lot of citizens were upset about it.
- We asked them to conserve water which they did and, as a result of them doing their due diligence now they will have to pay higher water rates.
- Citizens are angry about it so he brought it for discussion.

Councilmember D'Aversa

- Asked if he were suggesting that we make a statement.

Councilmember Tart

- Early on he asked that Council make a statement in opposition to the way this was handled, either by Resolution or some other means, but he is open to discussion.
- He understands the lack of revenue but he does not feel it is any ones best interest to penalize the citizens for conserving water because the next time we ask them to conserve water they may not be apt to do it.

Councilmember D'Aversa

- What would we do if it had been our City and our situation?
- Would we have supported increasing our rates because now we are going to have a short fall?

Councilmember Thurman

- They have a bond premium they have to make so what other choices do they have.
- They have to make their bond premium.
- The 2008 bonded debt service is \$38,815,634.00.

Councilmember D'Aversa

- But how much is the short fall that they are looking to make up with this 15%?

Mayor Lockwood

- They are probably trying to balance it back out when they have less consumption then obviously they are having to raise the rates to get the same revenue.

City Attorney Jarrard

- Did they identify that the reason for the increase in rates was because of less usage?

Councilmember D'Aversa

- Yes, they were very specific.

Councilmember Thurman

- It says water residential customer will pay an increase of \$3.21 and a sewer only residential customer will pay an increase of \$5.69 and this is off their website.

Councilmember D'Aversa

- If they had said that was an attempt to reduce consumption, she could support it more so because she thinks they could look to other ways to make up that short fall.

Councilmember Thurman

- According to the website, their projected water revenue is 16.24% less than it was in 2007 so that is pretty significant.
- They are making some of it up through other things, but the cost of doing business has increased and the revenue has gone down by 16.24%.

Councilmember Thurman

- If they do not meet their bond then they are in trouble.
- This is an Enterprise Fund and it has to support itself.
- It has to take care of itself it cannot take it from other sources.

Councilmember D'Aversa

- That makes a big difference.

Councilmember Tart

- If they raise rates then we might conserve even more so they raise rates even more so where does it stop.

Mayor Lockwood

- They probably need to communicate it better.

Councilmember D'Aversa

- The other things are they were following State guidelines also.
- From Councilmember Thurman's perspective, if Rob had put in his release why they cannot find it someplace else.

Councilmember Thurman

- Unfortunately, it cannot be taken from other funds.
- It is really hurting the smaller cities.

Councilmember Tart

- Appreciates Councilmember Thurman's clarification on that.

Lynn Gregory, 3380 Sonata Lane

- Asked what about people that abuse the water restrictions.
- Someone uses 30,000 gallons versus 5,000.
- Why is it not charged that way instead of penalizing people that are conserving?
- There is other way to make up the difference.

Councilmember Hewitt

- Thinks that Fulton County put in some sort of base line a few years ago and they use the base line in the winter.

Councilmember Thurman

- The penalty is if you go over a certain percentage of the base line.

Lynn Gregory

- Knows they cannot go back in time to correct the problem, but for future maybe they could have other resources to get it from.

Councilmember Thurman

- The base line is based on water usage in the winter.

Mayor Lockwood

- Asked if there were any other comments.

Community Development Director Wakefield

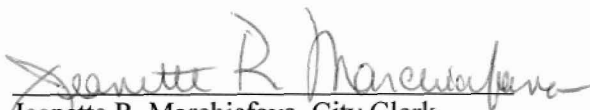
- Two things as relates to the Comprehensive Plan.
- We have the survey and will be sending it to Council this week.
- We also have a response back from ARC as relates to the community assessment and the Community Participation Plan.
- They determined we made compliance.

Mayor Lockwood

- Received a lot of good comments about Community Development Director Wakefield being on board from citizens.

After no further business, the Work Session adjourned at 9:10 PM.

Date Approved: July 7, 2008



Jeanette R. Marchiafava, City Clerk



Joe Lockwood, Mayor