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**The Regular Council Meeting of the Mayor and Council of the City of Milton was held on July 21, 2008 at 6:00 PM, Mayor Pro Tem Tina D'Aversa presiding.**

**CALL TO ORDER**

**Mayor Pro Tem D'Aversa** called the meeting to order.

**INVOCATION**

Tass Welch, Community Minister, Community Church of Christ led the invocation.

**ROLL CALL**

**City Clerk Marchiafava** called the roll.

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

**Absent:** Mayor Joe Lockwood/excused

**PLEDGE OF ALLEGIANCE**

**City Clerk Marchiafava** led the Pledge of Allegiance

**City Clerk Marchiafava** read agenda item 08-621.

**APPROVAL OF MEETING AGENDA**

Staff recommended the following changes to the Meeting Agenda:

1. Under the Consent Agenda, defer until August 4, 2008, Approval to authorize the execution of the Agreement of Mutual & Automatic Aid between the City of Milton and the City of Alpharetta.
2. Under First Presentation, defer until August 4, 2008, Approval of an Ordinance Amending Chapter 15, Health and Public Safety to reflect the composition of the Milton Department of Public Safety.

**Motion and Vote:** Councilmember Tart moved to approve the Meeting Agenda, as amended. Councilmember Zahner Bailey seconded the motion. There was no Council discussion. The motion passed unanimously (6-0).

**PUBLIC COMMENT**

**Mayor Pro Tem D'Aversa** read the rules for Public Comment.

There was no Public Comment

**CONSENT AGENDA**

**City Clerk Marchiafava** read the following Consent Agenda items.

**(Agenda Item No. 08-622)**

Approval of the Financial Statements for the period ending June 2008.

**(Agenda Item No. 08-623)**

Approval of the July 3, 2008 Special Called Work Session Minutes.

**(Agenda Item No. 08-624)**

Approval of the July 7, 2008 Regular Meeting Minutes.

**(Agenda Item No. 08-625)**

*Deferred until August 4, 2008 by Motion and Vote*

Approval to authorize the execution of the Agreement of Mutual & Automatic Aid between the City of Milton and the City of Alpharetta.

**Motion and Vote:** Councilmember Lusk moved to approve the Consent Agenda. Councilmember Tart seconded the motion. The motion passed unanimously (6-0).

**REPORTS AND PRESENTATIONS**

**City Clerk Marchiafava** read the following presentation item.

**Ceremonial presentation of the Special Services District (SSD) check by Fulton County Commissioner Lynne Riley.**

**Mayor Pro Tem D'Aversa**

- Thanked Commissioner Riley and welcomed her along with Senator David Shafer and Representative Jan Jones.
- We appreciate all that they do for the City.
- The funds that Commissioner Riley will be giving us can be used for anything from parks to roads to infrastructure improvements.
- The money comes from a Special Services District Fund into which the City's residents paid for Fulton County services before Milton's incorporation.
- A bill to send the money from the fund which could not be spent anywhere else to all the North Fulton cities was authored by Representative Jan Jones.
- It passed the State, House, and Senate last April.
- The money is a huge positive benefit to our City.
- Mayor and Council look forward to determining how the money is best appropriated.
- She thanked Commissioner Riley for her efforts on behalf of the City.
- She thanked Representative Jones and Senator Shafer.

**Fulton County Commissioner Lynn Riley**

- It is a great pleasure to pay tribute to an important event in the City of Milton's history and to acknowledge the hard efforts of Senator Shafer and Representative Jones.
- They have made our future in North Fulton better.

**Representative Jan Jones**

- It is a pleasure to see us get almost all of the money we were due.
- She had the assistance of Commissioner Riley and Senator Shafer in writing the bill.
- Commissioner Riley made sure we put a date certain in there.
- The efforts of Senator Shafer helped to get the Bill passed.
- It was difficult.
- There is still a little over one million dollars that the Commissioners of Atlanta have stolen from the City of Milton against the protestations of Commissioner Lynn Riley.

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- She will be working with Senator Shafer to make sure that if it takes legislation every year, they will get every last penny that is due the City on behalf of the residents.
  - She did not think to put in the bill, thou shalt not steal.
  - We will prevail before we all finish what we are doing.

**Senator David Shafer**

- As a historical note, it was when we were considering the creation of Sandy Springs that we amended the enabling legislation for that new city to require that funds raised in the northern part of the Special Services District be spent in the northern part of the Special Services District.
- For thirty years money was raised here and spent in remote areas of this county on services that none of the people who paid for them benefited from.
- When the original language was added into the Sandy Springs bill, they never imagined that they would refuse to spend the money at all as a way of preventing that money from being spent here.
- He is delighted that those funds that have been held can finally be returned to the taxpayers through their elected officials.
- He thanked the City for the opportunity to make the presentation.

**Mayor Pro Tem D'Aversa**

- It is very nice to see us working together.
- She trusts that between our staff, City Manager, Representative Jones, and Commissioner Riley that we will have the remainder of the funds delivered to us appropriately.

**PUBLIC HEARING**

**Approval of an Ordinance of the Mayor and Council of the City of Milton, Georgia, to fix the Ad Valorem Tax Rate of the City of Milton for Fiscal year 2008; and for other purposes.**

**Finance Manager Stacey Inglis** presented the following Power Point Presentation.

We are required by State law to advertise a property tax increase when we elect not to rollback the millage rate to account for growth and reassessments in the digest. Since we are proposing to keep the same millage as the previous year of 4.731 mills, we are experiencing a 4.02% increase in the property taxes that we will collect. Please keep in mind that "Property Taxes" include real, personal and motor vehicle taxes.

- Total Tax Digest = \$2,179,886,473
- Total Taxes Levied = \$10,313,043
  - Property Taxes = \$9,849,262
  - Motor Vehicle Taxes = \$463,781
- Property Tax Increase
  - Increase of 4.02% due to growth in digest and value re-assessments
  - 4.731 mills

According to the official code of Georgia 48-5-32, we are required to hold three public hearings on the establishment of a millage rate. Those public hearings will be held on July 21 and August 4 during the regularly scheduled Council meetings and on August 11 during a Special Called Council Meeting. The adoption of the millage rate will take place after the public hearing on August 11.

- 1st Public Hearing – July 21st 6:00 p.m. Council Meeting
- 2nd Public Hearing – August 4th 6:00 p.m. Council Meeting
- 3rd Public Hearing – August 11th 5:45 p.m. Special-Called Council Meeting
- Adoption of Millage Rate – August 11th 5:45 p.m.
- Tax bills to be mailed August 15th

- Taxes due October 15th

### **An Investment in Your Community**

Nobody likes to pay property taxes. I've never spoken to one single person who is excited about the proposition of paying taxes. This is mostly because there is a lot of mystery and misunderstanding when it comes to property taxes. In this presentation, I will try to explain what your property taxes are for, what the process is in assessing the property tax, and where you would go if you had any questions about your property taxes.

You, as a collective group of voters, decided that you wanted better community services to help improve your quality of life. You also wanted to bring decisions about your community to the local level allowing you to have more control. With this vision in mind, the City of Milton was formed. However, there are some services that the City can't provide, such as the ones listed under the County column. All of these services listed here require funding to sustain them. The main source of funding is property taxes. Because you receive services from both the City and the County, you are taxed by both entities... hence the two tax bills.

Together, as a community, we are able to gain a higher quality of life and purchase the necessary services that we could never afford alone. Even better, you get great value for your money.

### **City Services**

- Health Inspectors
- Animal Shelters
- Jails
- 911 Operations
- Public Libraries
- Health Department

### **County Services**

- Public Education
- Police & Fire Protection
- Road Building & Maintenance
- Planning & Zoning
- Building Inspections
- Parks & Recreation
- Community Development
- Criminal Prosecutions

The average property value in Milton is about \$350,000. The average tax bill calculates to approximately \$553. The table that you see here is how your tax dollar is broken down for each of the services the City provides.

Police includes:

- Traffic Control
- Criminal Prosecutions
- General protection from crime

Fire includes:

- Fire prevention and suppression
- Fire Marshall
- Emergency response to accidents

Public Works:

- Infrastructure Maintenance

Parks & Recreation:

- Parks maintenance

Community Development:

- Building Inspections (to ensure that your homes and businesses are safe to live, work and play in)
- Code Enforcement (ensures that properties are in compliance with the City Ordinances)
- Licensing & Permitting
- Economic Development (improve on the quality of life through development)

Administration:

- Governing Body
- City Manager
- City Clerk
- Operations-Finance, Legal Services, HR, IT, Risk Management
- CIP
- Debt Service

**Average Fair Market Value = \$350,000**

**Average Property Tax Bill = \$553**

<i>Service</i>	<i>Annual</i>	<i>Month</i>	<i>Day</i>
<b>Police Protection</b>	<b>\$65.47</b>	<b>\$5.45</b>	<b>\$.18</b>
<b>Fire Protection</b>	<b>\$110.54</b>	<b>\$9.21</b>	<b>\$.30</b>
<b>Public Works</b>	<b>\$103.39</b>	<b>\$8.61</b>	<b>\$.28</b>
<b>Parks &amp; Rec</b>	<b>\$7.52</b>	<b>\$.62</b>	<b>\$.02</b>
<b>Community Dev</b>	<b>\$44.84</b>	<b>\$3.73</b>	<b>\$.12</b>
<b>Admin &amp; Other</b>	<b>\$221.24</b>	<b>\$18.43</b>	<b>\$.61</b>
<b>Total</b>	<b>\$553</b>	<b>\$46.05</b>	<b>\$1.51</b>

***What is a mill?***

\$1 per \$1,000 of Assessed Property Value

Or

.001 x Assessed Value

Assessed Value = 40% of Fair Market Value

Like last year, you will receive two tax bills: one from the County and one from the City. The County Tax Commissioner collects the taxes for the State, the County, and the School Board. The City only collects the city taxes. The total millage rate for the City and the County is 32.764 mills. That is actually 0.589 mills less than the total millage you paid last year. The difference comes from a lowered School bonds rate (from 1.188 mills to 1.099 mills) and from the School Operating rate (from 16.903 mills to 16.403 mills)

***Six Different Types of Taxes***

- Fulton General – 10.281 mills
- School Bonds – 1.099 mills
- School Operating – 16.403 mills
- State – .25 mills
- City – 4.731 mills

Total Mills for City & County in 2007 = 32.764

**FMV = \$350,000**

<b>City</b>	<b>Millage Rate</b>	<b>Tax Amount</b>
<b>Milton</b>	<b>4.731</b>	<b>\$553</b>
<b>Johns Creek</b>	<b>4.614</b>	<b>\$540</b>
<b>Sandy Springs</b>	<b>4.731</b>	<b>\$553</b>
<b>Duluth</b>	<b>5.191</b>	<b>\$607</b>
<b>Roswell</b>	<b>5.657</b>	<b>\$661</b>
<b>Suwannee</b>	<b>5.770</b>	<b>\$675</b>
<b>Alpharetta</b>	<b>5.472</b>	<b>\$640</b>

If you have filed for and received a homestead exemption from Fulton County, then the City automatically extends to you a \$15,000 basic exemption. We also offer three different senior exemptions and a disability exemption. In order to be eligible, you must meet the requirements for a specific exemption and you must apply for it. The deadline for filing the application occurs on May 31<sup>st</sup> in order for it to apply to the current year's taxes. If you miss the deadline, then the exemption will apply to the following year's tax bill.

***Homestead Exemptions***

- Basic Homestead Exemption = \$15,000
- Senior Exemptions
  - Age 65 or older = \$15,000
  - Age 65 or older and makes less than \$52,440 (the maximum Social Security annual benefit) = \$25,000
  - Age 70 or older and makes less than \$52,440 (the maximum Social Security annual benefit) = Full Value Exemption
- Disability Exemption and makes less than \$52,440 (the maximum Social Security annual benefit) = Full Value Exemption
- Full Value Exemption

For the average Milton home, this is an example of how your property taxes are calculated.

If you qualify for the basic homestead exemption, then you deduct \$15,000 from the assessed value.

The HTRG Credit is the Homeowners Tax Relief Grant that was extended by the Governor to give homeowners a break. In order to qualify for this grant, you must own the home and live in it. You also must apply in person for the homestead exemption with the County between January 2 and March 1 of any calendar year. Homeowner must have owned, occupied and claimed Georgia as their legal state of residence on January 1st of the calendar year in order for it to apply. Once qualifies, exemption will remain as long as homeowner occupies that same house or there are no name changes. If you miss the March 1st deadline, the homestead exemption and HTRG will be applied to the following year's tax bill.

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***How is my City property tax bill calculated?***

Fair Market Value	=	\$350,000
Assessed Value (40%)	=	\$140,000
Less Homestead Exemption	=	\$ (15,000)
Less HTRG Credit	=	\$ (8,000)
Subtotal	=	\$117,000
Multiply Millage Rate	=	x .004731
Total Taxes Due	=	\$ 553.53

You may have noticed the words “CPI Frozen” on your County tax bill. This stands for consumer price index frozen. Senate Bill 610, passed in 2004, provides for a homestead exemption equal to the difference in the amount of the current year assessed value and the base year assessed value. In 2005, if you qualified and applied for a homestead exemption with the County, your base year would have been 2003. Any year after 2005 would have a base year of the preceding year. So, if you filed for the homestead exemption in 2007, then the base year would have been 2006.

The exemption only applies to the Fulton County general or operating taxes. It does not apply to school, state or city taxes.

Even though this exemption is titled CPI Frozen, it does not mean that the value of your home never changes. It means that the value will only increase in increments no higher than 3%. If the consumer price index is lower than 3%, then the value will increase the same rate as the CPI for that year.

Even though the CPI Frozen value increases each year, it will never be higher than the current year’s **assessed** value.

***CPI Frozen***

- Consumer Price Index Frozen
- Senate Bill 610 passed in 2004
- If you qualified and applied for homestead exemption in 2005, your Fulton County Operating taxes would receive a reduction based on the difference in the fair market value of your home in 2003 and 2005.
- If you qualified and applied for homestead exemption after 2005, then the base year would be the prior year.
- Each year, the assessed value for the Fulton County Operating taxes will increase in increments no higher than 3%

If you filed for homestead exemption this year, your base year for the CPI Frozen exemption would be 2007. If there was a reassessment done that increased the value of your home over the base year amount, then you will see an exemption applied to your Fulton County Operating taxes. This exemption is the difference in the assessed values of the base and current years.

***CPI Frozen Value Example***

- 2007 Fair Market Value = \$350,000
  - Assessed Value = \$140,000
- 2008 Fair Market Value = \$400,000
  - Assessed Value = \$160,000
  
- 2008 CPI Frozen Value = \$140,000 + 3% increase = \$144,200
  - Exemption = \$160,000 - \$144,200 = \$15,800

### ***Conservation Use Value Assessment (CUVA)***

- If you qualify, the property value will be based on land use and not market value.
- No minimum amount of acreage. Maximum is 2,000 acres.
  - If less than 10 acres, owner must submit additional relevant records regarding proof of bona fide conservation use.
- Primary purpose must be any good faith production from or on the land of agricultural products or timber.
- Owner agrees to maintain property in bona fide qualifying use for a period of ten years.

### ***Who are the players in the property tax process?***

- The GA Constitution requires all property to be valued in a fair & uniform manner
- GA legislature enacts laws that designated which properties are subject to taxation and which are exempt.
- Board of Assessors is required by law to value your property at its current market value. The current market value is how much you should be able to sell your house for if you put it up for sale. To accomplish this, the Board hires a state-trained appraisal staff. The State enforces the requirement that appraisals be kept at market value by levying a fine on County's that don't keep property values current.
- If you do not believe that the property value assigned by the tax assessors is fair, then you can appeal to the Board of Equalization. The Board is made up of regular citizens that are appointed by the grand jury.
- If you are still not satisfied, a Superior Court Judge can hear your appeals as a final recourse.
- The tax commissioner collects the tax and distributes them to the appropriate agency.
- The City Council sets the millage rate.

1. GA Legislature
2. Board of Assessors
3. Board of Equalization
4. Superior Court Judge
5. Tax Commissioner
6. City Council

Here is a list of the proper departments that can assist you with any questions or concerns that you might have about your property taxes. A few people may automatically think to speak to their elected Mayor or Council members. However, when it comes to property taxes, they only have the responsibility of adopting the budget, setting the millage rate, and funding the department that collects taxes.

### ***Where do I go if I have a question or problem related to my property tax?***

- Problem with your property assessment?
  - County Tax Assessor
    - Burt Manning (404) 612-6440
- Questions concerning your tax bill?
  - City Taxes
    - Finance Department (678) 242-2500
  - County Taxes
    - Tax Commissioner
      - Arthur Ferdinand (404) 730-4000

Nobody likes to pay taxes, but it provides an enormous value to you and your community

### **(End of presentation)**

There was no public comment

### **FIRST PRESENTATION**

**City Clerk Marchiafava** read agenda item 08-627.

### **Approval of an Ordinance of the Mayor and Council of the City of Milton, Georgia to fix the Ad Valorem Tax Rate of the City of Milton for fiscal year 2008; and for other purposes.**

**Motion and Vote:** Councilmember Thurman moved to approve the First Presentation of Approval of an Ordinance of the Mayor and Council of the City of Milton, Georgia to fix the Ad Valorem Tax Rate of the City of Milton for fiscal year 2008; and for other purposes. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously (6-0).

### **ZONING AGENDA**

**City Clerk Marchiafava** read the Zoning Agenda Rules along with agenda item 08-613.

At the second regularly scheduled meeting of the month, the mayor and City Council consider a Zoning agenda. These items include rezoning petitions, modifications of zoning, use permits, and associated concurrent variances, in addition to ordinances, resolution, and text amendments.

The petitions will be heard in the sequence listed on the posted agenda. I would like to acquaint you with some of the rules and procedures for this meeting.

The applicant, and all those speaking in support of an application, will be allowed a total of ten (10) minutes to present the petition. The applicant may choose to save some of the time for rebuttal following the presentation by the opposition.

The opposition will be allowed a total of ten (10) minutes to present its position. If time remains, the opposition will be allowed to rebut.

Since the burden of proof is upon the applicant, the applicant will be allowed to make closing remarks, provided time remains with the allotted time.

The City Clerk's staff will be keeping track of time and will inform you periodically of the remaining time for your presentation.

Those called to speak will be taken in the order that the speaker cards were received by the City clerk's staff prior to the beginning of tonight's meeting.

All speakers will identify themselves by name, address and organization, if applicable, before beginning their presentation.

The Planning Commission heard the rezoning agenda items and recommendations have been forwarded to the Mayor and City Council for consideration and disposition.

In addition, the applicant shall not submit material to the Council during the meeting, unless requested to do so. All material that you wish to be reviewed by the Council in consideration of your application should be submitted to the staff of the Department of Community Development, to be included in the normal distribution of packages to the Council.

When an opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a

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disclosure with the governing authority of the respective local government at least five days prior to the Planning Commission meeting. A violation of the relevant state statute constitutes a misdemeanor. Therefore, if you have contributed \$250.00 or more to a Councilmember and you have not filed a disclosure prior to the Planning Commission meeting, the City Attorney strongly suggests that you have someone else speak for your point of view.

**U08-03 - 2810, 2820, 2830, 2840, 2850, 2860 Bethany Bend Road, Applicant: Church of Jesus Christ of Latter-Day Saints - To request a use permit for a 16,728 square feet church with 352 seats and storage shed, at a density of 2,320.95 square feet per acre on 7.2074 acres.**

*(Zoning Agenda items typed verbatim)*

**Community Director Alice Wakefield:**

(The recorder did not pick up Community Director Wakefield's comments)

**Mayor Pro Tem D'Aversa:**

We will hear from Mr. Hendricks who is at the podium in support of the zoning request.

**Attorney Pete Hendricks:**

I practice law at 6885 Lake Forrest Drive in Sandy Springs. The applicant who I represent had me request as Alice stated by letter on the 16<sup>th</sup> of June and staff received it on the 17<sup>th</sup> a withdrawal of the application. The application has been in the hopper for a good period of time and there was a tremendous amount of community back and forth on it primarily to different community groups. The final analysis - there were a couple of issues that brought the applicant to the position of ultimately saying this just is not working; we need to step back. Collectively, there were forty odd conditions being requested of the two different community groups of the applicant. About twenty of those could potentially have been worked through but there probably a half dozen that were just real hard core bullet items that just simply could not be addressed. In addition to that the property on one hand had the fortune on the other hand as we got down into your staff's conditions the misfortune of having two road frontages; it involved a lot of roadway improvement work. We had a very fine collective meeting with your staff. Mr. Drake stepped up and tried to help us as best as he could but could not peel back the layering a lot of the traffic improvements that were required, so the cost and expense of that together with not being able to come in front of you with a community accord left the applicant in a position of saying we are not trying to force this thing, it makes sense for us to step back. I do think that most probably you will see them again. I think there is a congregational need for the church to be in the City of Milton so it is not stepping back from the City of Milton that you are seeing it is just this particular piece of property became so tough to deal with financially that they had to step back from it.

**Mayor Pro Tem D'Aversa:**

Is there any Council discussion? I do not think we have any other additional comments, do we?

**City Clerk Marchiafava:**

That completes public comment. The public hearing is closed.

**Mayor Pro Tem D'Aversa:**

Is there any Council discussion?

**Councilmember Lusk:**

I would like to ask Mr. Hendricks a few questions. On the dozen or so conditions that were brought up by the community, do you feel that they were to onerous?

**Attorney Pete Hendricks:**

You never know who you are going to go back and deal with again so I would say there were a couple of them that were tough. One, and this is not unique to this client, I will always advise to a client of mine the last place you want to go is to deed restrict your property because you can never tell in the future what may come up and if you deed restrict it, you have absolutely, you are flat pregnant. There is no stepping back from it and the community wanted it deed restricted. A critical issue was along the northerly property line because it was up against residential there was a primer for fifty foot natural undisturbed and a ten foot improvement setback. As you got to the westerly portion of the property there was an open play area that was back there that would have been cut to nothing if that had been imposed back there. What the church had done was to deliver to the community a site plan that had the improvements fifty feet off the property line but did not have all of that fifty feet natural and undisturbed. Twenty five feet of it was natural and undisturbed and it did not run for the full length of the northerly property line. I would say those two things were the guts of it because if you apply a fifty foot natural undisturbed and ten foot improvement setback along that northerly property line for the entire run of the property line, the property could not have been developed as the church had intended for it to be developed. That together with the strong request that the property be deed restricted add infinite and those I would say were to the two real bullet issues.

**Councilmember Zahner Bailey**

If I may just extend on that question with regards to the transportation, you mentioned that it was two road frontages. Is it just the fact that the cost of that and what is required by our developing standards?

**Attorney Pete Hendricks:**

It was the cost of that and I think that you all are aware you were coming up with your trail program and at the time the applicant filed this application your trail program was sort of a glint in your eye. You had not formalized it, you had not adopted it and so your trail program was adopted during the pendent of the application and of course the staff for public policy reasons of knowing the direction that you all would like to see taken wanted to see provision made for that trail to be put into place, so that gave a further amount of widening that was necessary on the road frontage part. Also the level of improvement that had to be done accel/decel and the church is sitting there scratching their heads and saying: gee whiz our true use is awfully light here and that button that Dan very correctly punches for each of the respective roadways under normal circumstances as to traffic and roadway improvements, they are saying gosh we think that is a bit much for us. He did try and work with us but it did not come to a degree that we could ultimately handle it.

**Councilmember Lusk:**

Do you feel that there were City imposed conditions, for example, the bike and pedestrian plan that were imposed on you after you started developing your site plan.

**Attorney Pete Hendricks:**

That one did come forward that was not part of the initial planning effort and I know also we had looked at the possibility of some variances to gain relief as far as the setback was concerned in order to accommodate the septic and to be able to accommodate the septic field and not have to push it, push it on back and ultimately there was encouragement to step back from those variances. Any time you are involved in doing a use permit if you can follow the development standards that are set forth under the particular section of your Ordinance for that particular use that is being sought. If you can follow each and every one of those without need for a variance then really it becomes administrative in nature, almost for you all. It narrows very much your discretion as to yaying or naying over a particular application. I strongly encouraged them to step back for the variances to be put into a stronger position. Stepping back from the variances made development of the tract a bit tougher and the variances were not being looked upon favorably by the community.

**Mayor Pro Tem D'Aversa:**

Is there any other Council discussion?

**Councilmember Lusk:**

Do you think if this lot was deeper would it have relieved some of the buffer requirements?

**Attorney Pete Hendricks:**

We were almost a bowling alley if you look at the configuration of the property and I think if we had a bit more depth to the piece of property. I do not mean longitudinal depth, I mean the depth of it coming off of Cogburn. It would have helped a lot. It was frustrating and I think community that indicate to you that it was frustrating because by and large it was a good use of that piece of property and I think there was general recognition of that but when we got down to the specifics of what it would take for them to reasonably get in and do what they needed to do, it just did not work. We did not want to be standing up here in front of you with your staff having recommended the trail scenario, you all by public policy wanting to see implementation of the trail scenario and stand up here and say; gosh, Council we just cannot do that.

**Councilmember Lusk:**

So, do you think the conditions imposed on you were unreasonable both by the community and the City, or one or the other?

**Attorney Pete Hendricks:**

I understand where conditions come from. I understand as I say buttons that you push and standard conditions are spit out. Were we uniquely treated? I constitutionally have to assert that as I think you can well appreciate that I constitutionally have to assert that. Were there conditions the one that was totally unforeseen was the trail plan and I think you all can probably understand that I mean you all are going through your machinations of adopting that and it was at the time the application had already been filed so the applicant had been through it initial due diligence and initial cut at how you site plan and then a new requirement came forward. Technically, not there Ms. Wakefield put it in the conditions and so again we did not want to be standing in front of you saying; we had not reached closure with the community and by the way there is a condition that your staff has recommended that we simply cannot step up and agree to.

**Mayor Pro Tem D'Aversa:**

Ms Wakefield, is that condition for the trail system hard and fast? In other words, is that where the committee has designed that path to flow on that side of Bethany and that there is no alternative to that or how did the staff come to that conclusion?

**Community Development Director Wakefield:**

I will try and answer, but I will have to ask Mr. Drake if he would chime in because I got involved in this late in the process but I do know that we sat with the client and tried to work out alternatives and look at ways to not get around the requirement but to work with the applicant to provide the trail and also give them the ability to development as proposed.

**Public Works Director Dan Drake:**

To give a little history of this when the applicant first came in there was a requirement that the Cogburn frontage have the trail on there and then as the Bike and Ped committee was working through and we were finalizing the plans, the Bethany portion came on board as well. We asked them to do both the Bethany and the Cogburn and what also happened in the process of that is as we went through the traffic analysis there are required left turn lanes and right turn lanes that were needed on both Bethany and Cogburn. We thought the one on Cogburn could be relieved, but because it is such a critical point in our system. We could not relieve that left turn lane, so I believe the six foot that was needed to widen on both of those frontages as well as the sixteen feet to get the trail in really they were coming in from both the back side plus the street side, so that will give you a little bit of the history as we went through this process.

**Councilmember Lusk:**

Would you say by action of our own Pedestrian and Bike Path Ordinance here we have diminished the use of that property or limited its use?

**Public Works Director Drake:**

Do you want me to answer that question?

**Councilmember Zahner Bailey:**

I have a question. Just a Point of Order, if we are not starting to discuss things that may not be germane for request for withdrawal and I would ask for the City Attorney to comment. It's just that we are starting to conjecture about things that are not necessarily before us and so I would like for our City Attorney to weigh in as a point of order.

**City Attorney Davis:**

Well I think the issue before you is withdrawal and there is not a request for alleviating conditions or any request to proceed with the application based on different conditions or any objection condition so I think it would be appropriate to just consider the withdrawal. To the extent we are getting to some of these other issues, we are really going to some legal conclusions and the last question to staff, I think would call for him to make a legal determination as to whether it is the taking of property and I would caution staff on making those types of conclusions.

**Councilmember Zahner Bailey:**

Do we need to go ahead and Call the Question?

**Mayor Pro Tem D'Aversa:**

We will go ahead and ask for a motion.

**Motion and Second:** Councilmember Tart moved to accept the withdrawal **U08-03** - 2810, 2820, 2830, 2840, 2850, 2860 Bethany Bend Road, Applicant: Church of Jesus Christ of Latter-day Saints - To request a use permit for a 16,728 square feet church with 352 seats and storage shed, at a density of 2,320.95 square feet per acre on 7.2074 acres. Councilmember Hewitt seconded the motion.

**Vote:** The motion passed (5-1), with Councilmember Lusk opposed.

**Councilmember Lusk:**

If the Mayor Pro Tem will allow me to comment on my decision, I think it is a pretty sad day in this City when we cannot work to allow a church to be built in this City. We have already driven out a Christian School here a couple of months ago and they have relocated to Cherokee County so my objection is that we are driving out some of the institutions and the basic principals in which this country was founded. I think it behooves us to find ways to work with these institutions to keep them within our City rather than driving them away and in so doing ensuring that we are letting the people out there know that the City of Milton is welcome to development and we not appear to drive everybody away. Thank you.

**Mayor Pro Tem D'Aversa:**

Well, I would like to agree with you in that. I am not sure that the staff - you know their hands were tied with regard to some of these issues. It sounds like, but it is the applicant that is coming forward to us to withdraw it. We had been presented with alternatives tonight; I do think this Council wanted to see collectively, and I am speaking for myself, but I do think that you would have seen that this Council wanted to support this church of this property.

**Councilmember Lusk:**

I understand that fully and made reference that previously to a Christian school that was discouraged from developing in this City also and there appears to be a thread or at least a perception that we are driving these institutions out. I think we need to find some ways to work with these developments to encourage them rather than discourage them from operating in the City.

**Mayor Pro Tem D'Aversa:**

I would agree. Thank you.

**Attorney Pete Hendricks:**

Thank you for your thoughtful deliberation. I appreciate it.

**Mayor Pro Tem D'Aversa:**

Will the City Clerk please sound the next item?

**NEW BUSINESS**

**City Clerk Marchiafava** read agenda item 08-628.

**Authorizing the execution of an Intergovernmental Agreement for the provision of 911 Emergency Communication Services and GCIC Information Services between the City of Alpharetta, Georgia and the City of Milton, Georgia and further authorizing, amongst other things, terminating and superseding the April 16, 2007, Intergovernmental Agreement concerning the Georgia Crime Information Center (GCIC) Criminal Justice Information System Holder of Record Agreement between the City of Alpharetta, Georgia and the City of Milton, Georgia.**

**Public Safety Director Chris Lagerbloom**

- We have spent a lot of hours working through this.
- The agreement handed out is different than the one in your packet.
- Our concept is this would take effect October 1, 2008.
- It will need to be re-evaluated every year.
- We hope this will be a long relationship with the City of Alpharetta.
- We have a team and plan in place to implement this transition.
- It will be extensive and critical and we are prepared for that.
- Hope to also pass a Resolution that will allow the City of Milton to collect its wired and wireless 911 revenues and remit those revenues based on an invoice we would receive from the City of Alpharetta for these particular services.
- Comfortable that our revenues will exceed our expenditures as noted in this agreement.
- As it is now all of our revenues go to Fulton County in exchange for this service.
- We do not have any return from the County on any excess revenues that they might be receiving to provide the service that they are providing.
- The level of service we will be getting will be better than what we have now.
- Recognized Public Safety Director Gary George, and Deputy Public Safety Director Keith Sanders of Alpharetta being in the audience.
- If Council has directions about the center as opposed to how we would integrate into it they can answer those questions.

**Councilmember Zahner Bailey**

- Supports this very much and thanked Alpharetta for all of the work put forth.

- Asked Public Safety Director Lagerbloom to talk about the compensation and consideration of the agreement and how we will review the actual revenue versus expense on an ongoing basis.

#### **Public Safety Director Lagerbloom**

- Working with the Public Safety Department in the City of Alpharetta as well as their City Administrator and our City Manager, we had discussions in what was an equitable way to cost share this partnership.
- Both cities agree the best way to do this is on a population per capita type basis.
- Taking into account our population versus the City of Alpharetta and using that as a barometer to equitably disburse the cost of what it takes to operate the dispatch center.
- For purposes of the agreement we agreed on 75 and 25.
- Alpharetta has an annual operating budget of the dispatch center at 1.877 million.
- In this one year they have a capital improvement to the system which deals with their enhanced 911 telephones at a half million dollars which puts the annual fiscal budget in at \$594,315.
- They have been willing to take that capital purchase and our portion which is \$125,000 and spread it out over 5 years so we would have a \$25,000 commitment to that capital enhancement over the next five years.
- What this means in our fiscal year is approximately \$511,000.
- We have conducted a study of what our revenues are valued at.
- Comfortable that we are 93% accurate.
- The phone companies told us what their revenues and their users were for everyone that they were writing a check to Fulton County for that was in the 30004 zip code.
- We have 3 zip codes in Milton.
- A portion that is Roswell and a portion that is Cumming, but 93% of our City is in the 30004 zip code so our methodology is sound.
- We have real data and we know what the real data is.
- That puts our revenues in the estimation of \$570,000 to \$575,000.
- We have a plan in place to monitor actual expenses in this agreement.
- If all of this money that is budgeted in the operating capital budget is not used in the City of Alpharetta, our portion would be refunded and applied to future payments.

#### **Councilmember Zahner Bailey**

- In terms of the adjustment annually or from the eighteen month period if there was an adjustment based on the cost assessment going forward there would be an adjustment to that differential of revenue versus expense; but it did nothing to look backward. In other words this first twelve month period when we are evaluating the cost; if there was a difference it would be to adjust going forward. Is that still the case?
- In other words, we are agreeing to what the cost will be for us as a City for this next year and after that if we identify a difference in the cost than what we had expected it to be, it will be a forward adjustment and would not be any backward adjustment. We are not going to get any of that \$511,000 back in other words?

#### **Public Safety Director Lagerbloom**

- There is an opportunity to get some of that back and it is spelled out in Article 4 of the agreement that says when Alpharetta closes out their fiscal year if there are monies left in the operating and capital budget, we would be refunded and we would apply that refund to the next quarterly payment and then the next one would be less whatever that net value was.

#### **Councilmember Zahner Bailey**

- When you talk about the \$125,000 in terms of capital adjustments in this agreement what is contemplated for how we would arrive at a cost sharing approach for some unknown in the future if there needs to be some additional enhancements to the call center.

**Public Safety Director Lagerbloom**

- Milton is not just in a position with this agreement that it is going to have to subscribe to what Alpharetta decides the budget is and our portion is twenty five percent of it.
- We will have some ownership in this particular facility and we will have some part in the planning process when future budgets are put together, so Milton's interest will be represented not only in this initial agreement but in any agreement that we have going forward.

**Alpharetta Public Safety Director Gary George**

- That is exactly our plan.
- The 911 system that we have is twelve years old and is made by Motorola.
- They quit manufacturing this system about 7 years ago.
- Last year they budgeted \$45,000 to be able to go on the internet basically or E-Bay to find used parts for the system to keep it operating.
- We do think it will be totally \$500,000 for this system.
- Preliminary estimates \$410,000 to \$420,000 but when we put it in the budget we were not sure where it would go; so we plugged it in at \$500,000.
- The bid will open Thursday.
- Milton will have a seat at that table.
- This is a partnership and will benefit both cities.
- We share a lot of territory and we have to work as partners.

**Councilmember Zahner Bailey**

- Wanting to make sure from indemnification stand point; it looks like the language is parallel for Alpharetta as it is for Milton but effectively we are saying whatever comes down the road legally we are both covered and she would like to make sure that is the case.

**City Attorney Davis**

- If it went through their office it would be a standard indemnification.

**Councilmember Zahner Bailey**

- As an after thought, she would like to know whether or not we improve some of our insurance premium status because we are improving our service through this 911.

**City Manager Beckett**

- It sounds like Councilmember Bailey is referring to our ISO rating and we are on it.

**Motion and Second:** Mayor Pro Tem D'Aversa moved to approve authorizing the execution of an Intergovernmental Agreement for the provision of 911 Emergency Communication Services and GCIC Information Services between the City of Alpharetta, Georgia and the City of Milton, Georgia and further authorizing, amongst other things, terminating and superseding the April 16, 2007, Intergovernmental Agreement concerning the Georgia Crime Information Center (GCIC) Criminal Justice Information System Holder of Record Agreement between the City of Alpharetta, Georgia and the City of Milton, Georgia. Councilmember Zahner Bailey seconded the motion.

**Discussion on the motion:**

**Councilmember Lusk**

- Asked on the \$500,000 initial capital allotment if we come in under budget if the surplus would transfer to a reserve fund or how that would work.

**Alpharetta Public Safety Director George**

- He thinks that is the case but by June 30<sup>th</sup> at the end of the budget year; it will adjust and it will adjust Milton's 20% payment in that over a five year period so it will come back as an adjustment to Milton as Alpharetta.

**Councilmember Lusk**

- Asked in reference to 30004 zip code area if that was population they are considering just within the political boundaries of the City of Milton or if it extends.

**Public Safety Director Lagerbloom**

- The purpose of using the 30004 zip code was to "get in the ball park" with the revenues.
- He was just interested in the 30004 zip code area that they sent money to Fulton County on Milton's behalf to get an idea of the number of users.
- We did not use the zip code for the purpose of calculating the population.
- We use the US Census data for that.

**Mayor Pro Tem D'Aversa**

- Asked Public Safety Director George if Alpharetta's Council had seen this and approved it.

**Public Safety Director George**

- It was discussed at their workshop last week and is on the agenda for approval tonight.

**Vote:** There was no further Council discussion. The motion passed unanimously (6-0).

**City Clerk Marchiafava** read agenda item 08-629.

**Approval of a Resolution Amending Resolution No. 06-11-11 Establishing a 911 Charge on Wired and Wireless Telephone Communications.**

**Resolution No. 08-07-41**

**Public Safety Director Lagerbloom**

- We passed a Resolution in 2006 similar to this one.
- The change being that Resolution allowed us to collect those revenues and to dispense them in accordance to the Intergovernmental Agreement that existed between Milton and Fulton County.
- This one allows us let the phone companies know that we want them to still collect those revenues, but we want them disbursed based upon this new agreement with the City of Alpharetta.
- They will actually be disbursed to the City of Milton.
- We will manage the revenues and paying the invoice.

**Mayor Pro Tem D'Aversa**

- In the past, there have been some challenges in reference to what tower the call will go to when using the cell phone.
- Asked if we still have that challenge with Forsyth versus Fulton.

**Public Safety Director Lagerbloom**

- Yes, we do.

- There are two different phase in the cellular deployment.
- Phase I compliant gets you to where you can identify the cell tower that the call is originated from and Phase II compliant is where you can put GPS coordinance to the particular call.
- We are in a transition process to go from Phase I to Phase II.
- We are in the same position now that we will be initially with Alpharetta until we get to the Phase II compliance.

**Mayor Pro Tem D'Aversa**

- When talking about Phase II, how long will that take.

**Public Safety Director Lagerbloom**

- He does not know for sure.

**Motion and Vote:** Councilmember Zahner Bailey moved to approve a Resolution Amending Resolution No. 06-11-11 Establishing a 911 Charge on Wired and Wireless Telephone Communications. Councilmember Lusk seconded the motion. There was no Council discussion. The motion passed unanimously (6-0).

**MAYOR AND COUNCIL REPORTS**

**Councilmember Zahner Bailey**

- Thanked Project Coordinator Linda Blow for the 4<sup>th</sup> of July Parade.
- It was great and it will be a terrific tradition.

**STAFF REPROTS**

**City Manager Beckett**

- Council should have received a copy of the sewer map from Fulton County that reflects their lines.
- Asked if they could get any questions they may have to him so he can get the questions to Fulton County Staff.
- It will help during the discussion on August 4<sup>th</sup>.
- On the map there are two red lines which indicate other than roads in the northern part of the city.
- One follows Birmingham Road and the other is the south of there.
- Those are two future roads so ignore those two lines.
- We are not trying to edit Council in any way, we would simply like to know if there is something obvious about the map that you have a question with to please let us know.

**Mayor Pro Tem D'Aversa**

- In confirmation, our plan is to meet on August 4<sup>th</sup> at 4:00 p.m. to begin our discussion over sewer policies throughout the City.

**City Manager Beckett**

- That is correct.
- So it is clear it is not just a "red dot" discussion.
- Although it may be part of the discussion, it will be larger than that.

**Councilmember Zahner Bailey**

- It was her understanding that the August 4<sup>th</sup> meeting was going to be a work session that starts to go down the path of a sewer policy and it was not intended to be a dot specific review.

**City Manager Beckett**

- It is the initiation of some discussion about sewer.
- Whether that includes that map and then the subsequent discussion about anything beyond the map that Council wants to do.
- The red dot discussion will probably be a part of the discussion whether it is concluded that day or it extends beyond August 4<sup>th</sup>.

**Councilmember Zahner Bailey**

- Asked if it was a Special Called Meeting or a Work Session.

**City Manager Beckett**

- It is a Special Called Meeting.

**Councilmember Zahner Bailey**

- Asked City Manager Beckett if he could elaborate why it is a Special Called Meeting versus a Work Session.
- It was her understanding that they would have a Work Session to begin discussions in a public forum.

**City Manager Beckett**

- The Special Called Meeting has the same function as a workshop meeting.
- The distinction being if Council chooses to vote on something then they can do that in a Special Called Meeting.
- City Attorney Jarrard's interpretation of Milton's rules are Council can vote any time Council is together. Although he agrees with that, Council bridal themselves with their rules and procedures where it says they are not going to vote in work shop meetings.
- That is the distinction the Special Called Meeting will enable if Council reaches closure on any of the topics.

**Councilmember Zahner Bailey**

- It is going to take more that 2 hours to talk about an overall sewer policy for Milton.
- It was her understanding and she thought everyone agreed that it would be a work session when everyone could be present including Mayor and Council, staff, and City Attorneys.
- Asked for more discussion on whether it would be a work session versus a Special Called meeting.

**Mayor Pro Tem D'Aversa**

- Her expectation would be there would be no vote at a 2 hour meeting that is beginning to embark on the sewer discussion.

**Councilmember Thurman**

- We do not have to vote, but we have that availability if there is an item that needs to be specifically addressed then we have the right to vote.
- There is no obligation.

**City Manager Beckett**

- As the City Attorney said Council can vote at a Work Session, but we are trying to keep it clean because of the way the Rules and Procedures are written distinguishing between the two.

**Councilmember Zahner Bailey**

- For the record, she would hope that they would not be voting on a sewer policy when they have not even had the first work session to discuss a very broad reaching, very critical topic to the future of this community.

**Mayor Pro Tem D'Aversa**

- What she is hearing is that they are not assuming.

**City Manager Beckett**

- It is Council's meeting, but he needs to know if 4 or more want to have a workshop or if 4 or more want to have a Special Called Meeting.

**Councilmember Zahner Bailey**

- Prefers a Work Session because it is consistent with what they had first discussed and she thinks it removes any uncertainty about what the intent of the meeting is.

**Councilmember D'Aversa**

- Agrees a workshop is best.

**Councilmember Tart**

- Would agree with that.

**Councilmember Thurman**

- If there is something that they may need to address that day then the Special Called Meeting gives them everything a work session does plus the flexibility to address something that needs to be addressed.

**Councilmember Tart**

- Unless we are going to make a motion to suspend Robert's Rules of Order, the formality is a lot different in a Special Called Meeting versus a Work Session.

**Councilmember Lusk**

- We should keep our options open and there is no obligation to vote on anything.

**Councilmember Hewitt**

- Agreed with Councilmember Lusk and Councilmember Thurman.

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**City Manager Beckett**

- He thought there was a feeling expressed by 4 of them that it should be a called meeting so their options could be open.
- The original reason was that the red dot area might possibly be resolved in whole or in part that evening and that was the logic behind having the Special Called Meeting.

**Councilmember Thurman**

- There may be a red dot that really should have been a yellow dot and if that is the case it would give them the opportunity to take care of that one thing.
- She doubts they will be voting on a sewer policy after a 2 hour discussion, but it gives them the flexibility if they find there is something to address.

**Mayor Pro Tem D'Aversa**

- Regardless of whether there is a Work Session or a Special Called meeting, this Council can by a vote of 4 to 3 make a decision and cast a vote that evening.

**Councilmember Zahner Bailey**

- The difference would be what they put forward in terms of expectations with their citizenry.
- If the intent is that on August 4<sup>th</sup> they will be voting on what was put forward as red dots, she assume that they are up front and direct about the fact that there could be some movement to vote that night as opposed to just having discussion.

**City Manager Beckett**

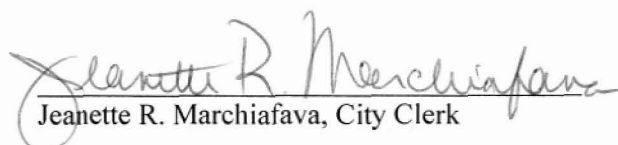
- He thinks the media would cover the possible range of options that are there.
- He can e-mail the Mayor and ask what his preference would be and that would 4 of them that would be directing him in an appropriate way to advertise for a Work Session or Special Called Meeting.

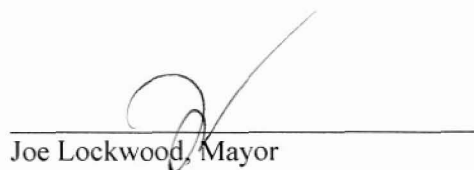
**ADJOURNMENT**

After no further business, the meeting adjourned at 7:38 PM.

**Motion and Vote:** Councilmember Hewitt moved to adjourn the Regular Meeting. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously (6-0).

**Date Approved: August 4, 2008**

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

  
\_\_\_\_\_  
Joe Lockwood, Mayor