
This summary is provided as a convenience and service to the public, media, and staff. It is not the intent to transcribe proceedings verbatim. Any reproduction of this summary must include this notice. Public comments are noted and heard by Council, but not quoted. This document includes limited presentation by Council and invited speakers in summary form. This is an official record of the Milton City Council Meeting proceedings. Official Meetings are audio recorded.

The Regular Council Meeting of the Mayor and Council of the City of Milton was held on October 6, 2008 at 6:00 PM, Mayor Joe Lockwood presiding.

CALL TO ORDER

Mayor Lockwood called the meeting to order.

ROLL CALL

City Clerk Marchiafava called the roll and made general announcements.

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

PLEDGE OF ALLEGIANCE

Mayor Lockwood led the Pledge of Allegiance.

City Clerk Marchiafava read agenda item 08-676.

APPROVAL OF MEETING AGENDA

Staff recommended the following changes to the meeting agenda:

1. Add a Resolution Amending Resolution No. 08-09-43, Appointing Advisory Committee Members for the Solid Waste Management Plan (TARA Committee) for District 3 and District 4, after the Reports and Presentations.
2. Add an Executive Session to discuss potential land acquisition.

Motion and Vote: Councilmember Hewitt moved to approve the Meeting Agenda, as amended. Councilmember Lusk seconded the motion. The motion passed unanimously.

PUBLIC COMMENT

Mayor Lockwood read the rules for Public Comment.

Wilson Borden, 880 Hampton Bluff Drive, Milton, Georgia

- Announced he was a candidate for the Fulton County Soil and Water Conversation District Supervisor Board.
- It is a five member board that oversees clean water regulation.
- Currently the only one running that lives in Milton.
- Hopes to bring a local voice to the board along with his fifteen years of experience.

There was no other Public Comment.

City Clerk Marchiafava read the Consent Agenda items.

CONSENT AGENDA

(Agenda Item No. 08-677)

1. Approval of the September 8, 2008 Special Called Budget Work Session Minutes.

(Agenda Item No. 08-678)

2. Approval of the September 8, 2008 Work Session Minutes.

(Agenda Item No. 08-679)

3. Approval of the September 15, 2008 Regular Meeting Minutes.

(Agenda Item No. 08-680)

4. Approval of the September 24, 2008 Special Called Meeting Minutes.
5. Approval of the following Construction Agreements per City Charter requirement:
 - a. April 15, 2008 - Unit prices and estimated quantities for estimated total from Atlanta Paving and Concrete Construction Inc for Bell Park handicapped ramps project with a total cost of \$12,498.30; and
 - b. June 16, 2008 - Construction agreement with Blount Construction Company, Inc. for Treyburn Run project with a total cost of \$18,240; and
 - c. June 24, 2008 - Construction agreement with Turnkey Services Inc for addition to restroom at Bell Park project with a total cost of \$36,000; and
 - d. July 8, 2008 - Construction agreement with Hardin Septic Tank and Sewer Lines Inc for Bell Park septic system project with a total cost of \$38,980.

Motion and Second: Councilmember Lusk moved to approve the Consent Agenda. Councilmember Hewitt seconded the motion.

Discussion on the Motion:

Councilmember Zahner Bailey

- Given the fact that some of the minutes had not been received until just before the weekend, she asked if some of them could be deferred until the next meeting as they had done historically.
- She has not had a chance to review them.

Mayor Lockwood

- Would be open to suggestion from the City Attorney.

Councilmember D'Aversa

- Asked City Attorney Jarrard if they were to approve the minutes, considering they are not verbatim minutes and the verbatim minutes are available via audio, what would stand if there was any repercussion from the fact they approve something and find something wrong later.

City Attorney Jarrard

- The minutes could be corrected.
- They are the official record of the action taken at the meeting but they could be modified.
- They cannot be modified in any way other than to better reflect exactly what occurred at the meeting.

Councilmember D'Aversa

- Asked if they would take precedent over any audio file after they have been approved.

City Attorney Jarrard

- Yes, that is correct.

Councilmember Thurman

- If we found something that needed correcting, we would just vote to amend the minutes.

City Attorney Jarrard

- That is correct.
- The minutes should accurately reflect what happened.
- The open meetings act does anticipate that minutes from the previous meeting are made available in some format to the public within two days of the meeting and officially voted upon at the next regular meeting.
- Recommended Council goes ahead and approve them and if they need to make changes they can do that at another meeting.

There was no further Council discussion.

Vote: The motion passed unanimously.

REPORTS AND PRESENTATIONS

A Proclamation dedicating October 6, 2008 as “Zack and Thomas Eller Adopt-a-Shelter Pet” day.

Councilmember Zahner Bailey

- The citizens and youth are one of the shining examples of what makes Milton so special.
- She is proud to bring forward a Proclamation honoring two very special young Milton residents to acknowledge them for their exemplary volunteer efforts regarding the safety, rescue and welfare of animals.
- Introduced Zack and Thomas Eller and read the Proclamation.
- She could not be more proud of them.
- She congratulated them and presented them with the Proclamation.

City Clerk Marchiafava read the next agenda item.

Added by Motion and Vote

Approval of a Resolution amending Resolution No. 08-09-43, Appointing Advisory Committee Members for the Solid Waste Management Plan (TARA Committee) for District 3 and District 4.

Resolution No. 08-10-45

Councilmember Lusk

- His appointee is Ron Hardy and is a native of Ohio.
- He graduated from the Cuyahoga Community College in Cleveland.
- He was in the army as an intelligence interrogator.
- He retired from UPS in California as a Security Division Manager after thirty five years of employment.
- He is an avid horseman and enjoys serving his community and his church.
- He lives at 1335 Summit Road in Milton.

Councilmember Hewitt

- Nominated Lauren Holmes for District 4.
- She is in the Real Estate business.
- She was unable to attend this meeting.

Motion and Vote: Councilmember Zahner Bailey moved to approve a Resolution amending Resolution No. 08-09-43, Appointing Advisory Committee Members for the Solid Waste Management Plan (TARA Committee) for District 3 and District 4, by appointing Ron Hardy for District 3 and Lauren Holmes for District 3. Councilmember Lusk seconded the motion. There was no Council discussion. The motion passed unanimously.

Oath of Office

Mayor Lockwood administered the Oath of Office for the Solid Waste Management Plan (TARA Committee) to Ron Hardy and Brian Warren.

FIRST PRESENTATION

City Clerk Marchiafava read the First Presentation items.

(Agenda Item No. 08-682)

1. An Ordinance to Amending Chapter 14, Land Development and Environmental Protection, of the Code of Ordinances for the City of Milton, Georgia.

(Agenda Item No. 08-683)

2. **ZM08-06/VC08-05** - 765 and 785 Mid Broadwell Road, To modify Condition 2.a. and 4.b. of RZ03-140 (ZM06-011 NFC), to modify the site plan and to remove the requirement that the owner dedicate to Fulton County (City of Milton) the necessary right-of-way to provide a connector road from Broadwell Road to Mid Broadwell Road prior to attaining an LDP, or as may be approved by the Director of Public Works. The applicant is also requesting a concurrent variance to reduce parking from 58 to 39 spaces (Article 18 Section 2.1).

(Agenda Item No. 08-684)

3. **ZM08-07** - 12659 Itaska Walk, To modify Condition 3.a. of RZ03-156 to reduce the side setback from 10 ft. to 4 ft along the north property line and to reduce the rear set back from 20 ft. to 8 ft.

(Agenda Item No. 08-685)

4. **RZ08-09** - To amend Article 22, Appeals of the City of Milton Zoning Ordinance.

(Agenda Item No. 08-686)

5. Approval of an Ordinance to Amend Chapter 6 of the Code of Ordinances of the City of Milton, To Establish the Code of Ethics for the City of Milton; To further and Incorporate the Policies and Laws of the State of Georgia Relating to Ethical Standards; To Create the Board of Ethics and Provide for Board Membership, Duties, and Responsibilities; to Provide for the Disposition of Ethics Complaints; to Ensure Compliance With Ethical Standards; to Repeal Conflicting Provisions; to Provide for Severability; to Provide for an Effective Date; and for other Purposes.

Motion and Vote: Councilmember Tart moved to approve the First Presentation Items. Councilmember D'Aversa seconded the motion. The motion passed unanimously.

UNFINISHED BUSINESS

City Clerk Marchiafava read agenda item 08-687.

Authorize the issuance of permits (LDP, building, CO, etc.) to those parcels reflected within the sewer delivery area map approved by City Council on September 15, 2008 as long as the applicant provides an approved sewer permit from Fulton County.

City Attorney Ken Jarrard

- On September 15, 2008, this Council approved a new sewer map and an IGA to go along with that map.
- That has been transmitted to Fulton County for their consideration.
- At this point they have not responded back, so we do not have an IGA as of right now.
- However, permitting and development in Milton continues.
- There are some developments that are seeking permits or certificates of occupancy and staff needs guidance.

-
- We have some finality with respect to what the City Council believes are the appropriate boundaries of the Fulton sewer area.
 - There was a consensus not to do this one at a time but that it would make more since if Council approves in an omnibus fashion the ability for staff to issue permits or COs for those developments that are in the confines of the boundaries of the map that Council approved on September 15th so long as there is a Fulton sewer availability letter.
 - He prepared a motion to that effect and if Council supports it then it can be approved at this meeting.

Mayor Lockwood

- Asked City Attorney Jarrard what his interpretation was on how we move forward without an IGA.

City Attorney Jarrard

- We are limited.
- An IGA takes two parties and we have to agree and it may be the product of some future negotiation.
- He does not think we have the choice to do nothing.
- We have to respond to these developments because they have a legitimate right to receive sewer.

Councilmember Zahner Bailey

- She understands how the Braeburn development meets certain criteria.
- She is not familiar enough with all of the other properties that would fall under this motion.
- She would like to understand how some of the other parcels that might be part of a global approval may or may not meet the same standard.
- Some of the parcels she has in mind are those in the Crabapple area that are not under development, one on Webb Road.
- One other subset to that would be with Braeburn in particular; if we could address the EPA issues and regulatory issues that were there.

Motion: Mayor Lockwood move to authorize Milton staff to review and issue, as appropriate, all necessary permits and certificates of occupancy for those developments-in-progress located within areas color-coded for sewer service as reflected in the sewer service map adopted by the Milton City Council on September 15, 2008. This Motion is based upon the following findings and subject to the following restrictions:

1. That on September 15, 2008 the Milton City Council, at a duly called and advertised meeting, adopted a sewer service map and an accompanying Intergovernmental Agreement (“IGA”) for delivery to Fulton County for its consideration;
2. That the sewer map and the IGA identified certain land lots and portions of land lots that the Milton City Council considered appropriate for sewer service;
3. That the September 15 sewer map is color-coded, and only those parcels colored dark blue or light blue are deemed appropriate for sewer service;
4. That the map adopted by the Milton City Council includes areas designated for sewer service where certain developments-in-progress are presently located;
5. A development-in-progress, for purposes of this motion, is a development in need of permitting, plan review, or a certificate of occupancy that also has a sewer availability letter from Fulton County issued prior to the date of this motion – and is located entirely located within areas color-coded for sewer service as reflected

in the sewer service map adopted by the Milton City Council on September 15, 2008;

6. That based upon the above facts, the equities of the situation are such that in spite of the lack of an agreed upon sewer IGA between Fulton County and the City of Milton, it nonetheless is in the best interest of the health, welfare and safety of the citizens of Milton for developments-in-progress to proceed with permitting, plan review and certificate of occupancy issuance; and,
7. A statement shall be attached to any permit(s) and/or CO(s) issued stating that:
“Issuance of this permit and/or CO should not be construed as a waiver by Milton of its right to require strict compliance with all constitutional entitlements and safeguards concerning the requirement that another jurisdiction may only provide new sewer service in Milton pursuant to an Intergovernmental Agreement. Issuance of this permit and/or CO was based upon the development being located in an area deemed appropriate for sewer service by the City of Milton, and issuance of same is to have no precedential effect with respect to any other development.”

Second: Councilmember Thurman seconded the motion.

Discussion on the Motion:

Councilmember Tart

- Part of his apprehension is we do not have an approved IGA with Fulton County.
- Although there was a majority vote on the sewer service area map, that map is not approved by Fulton County so we revert back to the old IGA.
- He is ok with approving sewer to those developments that are in process that have significant infrastructure, cost by the developers, etcetera.
- He does not want to have voted against the IGA sewer service area map and then approve this.

City Attorney Jarrard

- The foundational component of this motion is the map.
- Although Fulton County has not approved it, this Council has so to him that was the foundation he used to build on top of.
- This motion anticipates that Fulton has issued certain sewer availability letters and certain developers have them in hand.
- Before this would be affective as to that development, they have to have a letter that was issued prior to today.
- If they get a sewer availability letter tomorrow it will not work under this motion.
- Fulton still needs an incentive to sit down with us and perhaps this would be that incentive because future sewer letters will not get the benefit of this motion.
- This has a very finite cut off point.
- It is not as wide open as it may be viewed as.

Councilmember Tart

- The extra land lots that were added to the sewer service area map that were in Crabapple.
- Asked if those would be included in this vote.

City Attorney Jarrard

- They would.

- Anything that is colored for sewer availability on the September 15th map if they have an existing letter from Fulton County.

Councilmember Tart

- We do not currently have a new legal contract with Fulton County on the new sewer service area map.

City Attorney Jarrard

- If we had that with Fulton County we would not need this motion.

Councilmember D'Aversa

- She feels the same way as Councilmember Tart.
- It concerns her that we are making a blanket decision.
- Fulton County has not had the time to respond.
- She asked if there was some since of urgency with any of the properties.
- Why would we not just approve whatever is an urgent issue.
- We are making a fairly quick decision to make an across the board approval of sewer when we just approved the extension of sewer throughout the City.
- It concerns her that Fulton County may come back with something different than what was approved by this Council.
- Asked City Attorney Jarrard what we would do in that event.

City Attorney Jarrard

- With respect to the urgency, and with respect to Braeburn, he understood there was a since of urgency.
- They need some permits.
- The only thing that broadened it was a feeling by some members of Council that there was some efficiency by doing this in a broad brush way so we are not repeatedly coming up and filling the agenda with additional request.

Councilmember D'Aversa

- Asked what was the specific urgency was with Breyburn.
- Her comment with regards to the efficiencies, she is all about efficiency and if she had agreed that some of these parcels should have been extended sewer service then she would have no problem with our staff proceeding.
- She does not feel it is Council's roll to determine who gets a permit under a legitimate approved IGA, but she did not agree with that sewer service extension and now we are making a blanket statement without having Fulton County agree that they have excepted the map.

Community Development Director Wakefield

- Braeburn is in a situation where they needed permits for the commercial portion because they had tenants that they had signed contracts with and the tenants were ready to walk so they wanted to get the construction of the commercial development under way.
- They had gotten the green light from the Core of Engineers and the EPD so they wanted to move forward and construct the model homes.
- She has a copy of the actual permits for the commercial portion and four model homes.

Councilmember D'Aversa

- Asked if this property was a new property to receive sewer added to the September 15th map from our previous map or were they already going to receive sewer service.

Community Development Director Wakefield

- They had already received approval from Fulton County for sewer.
- The map that was approved September 15th included this property as having sewer.
- It was not in the old IGA.

Councilmember D'Aversa

- She wanted to clarify that what we are doing is approving properties that would not have otherwise had sewer a month ago even if they had a letter from Fulton County because it would not have fit into our policies in the past.

Mayor Lockwood

- He wants to clarify that they already physically had sewer in the ground on this property.

Councilmember Hewitt

- He would like to see things get wrapped up as expeditiously as possible.
- Asked if he heard correctly that the Braeburn Development had met all of the requirements with the Corps of Engineers and the EPD.

Community Development Director Wakefield

- That is correct.

City Attorney Jarrard

- This is just permission for staff to act on it in the way they would ordinarily act on it otherwise.

Councilmember Lusk

- Asked if the parcels they were talking about fall within the boundaries of the sewer service delivery area as proposed by Fulton County on August 4, 2008.

Community Development Director Wakefield

- Answered yes.

Councilmember Lusk

- So there is no extension of sewer beyond what Fulton County showed.
- Asked the City Attorney about paraphrasing in the motion "deemed appropriate."
- He challenges the word appropriate and asked if entitled be a proper term to use rather than appropriate since it has been granted legally.

City Attorney Jarrard

- He is not prepared to say that every area in the September 15th map that was colored coded had an entitlement.
- He believes there were some developments that were entitled based on the expenditures and assurances from another governmental entity but he was not prepared to say that with respect to all of them.
- He took the more generic "deemed appropriate" because he was taking the position this was a public policy position of Milton and did not go a step further.

Councilmember Zahner Bailey

- With regards to the motion, she is concerned we are proceeding with a "global" approval without having an IGA approved by Fulton County.
- The since of urgency was tied to the Braeburn Development and a since of urgency for one development does not require nor does it represent the best approach for us to protect the parcels with regards to the sewer service delivery areas.

- The official record does reflect that many of those parcels that were approved for an extended sewer service delivery area were sewer extension.
- Some of those parcels that were sewer extension were supported by a portion of this board and she does not support that sewer extension as a result to approve a policy that would reiterate sewer extension when we have just heard there is not an invested right nor an entitlement for all of those parcels to receive sewer.
- She does not think it would be legally in our best interest as a jurisdiction to take the leap from Braeburn to a blanket approach for the entirety of those parcels.
- She would be in support of a motion that spoke to those that have a sense of urgency.
- It would be hard if not impossible for her to support a motion that generically approaches all parcels as though they are the same because we have evidence that they are not.
- In regards to the Braeburn Development, some questions she received from citizens were about information about a bond and also information about the replacement of sidewalks.
- There was discussion that our staff was working with Weiland and she asked the Community Development Director if we had anything in writing that demonstrates they have already put money into escrow and if those sidewalks have been approved in writing for replacement.

Community Development Director Wakefield

- With regards to the side walks, we are working with Weiland because they are not required to replace the sidewalks because they are across the street, but they have given us their word that they will install at their cost the sidewalks. They will need the City's assistance in obtaining the additional right of way.
- We do not have anything in writing.

Councilmember Zahner Bailey

- Because it is not in writing is a concern shared by constituents.
- With regards to bonding for the future for any responsibility...

Community Development Director Wakefield

- The normal process is, and we are working with Weiland now, you have to bond all of the improvements for up to eighteen months after the completion and we are working on that.
- We are also working with the City Attorney's office to make sure the wording is correct.

Councilmember Zahner Bailey

- Asked if those documents are in place and if they had been signed.

City Attorney Jarrard

- He is not aware they have been executed yet.
- It is the standard eighteen months performance bond on infrastructure and is very common.
- He would not expect they would be executed it yet because they have not final platted it yet.

Councilmember Zahner Bailey

- Another question that had been asked about Braeburn was whether or not an approval would grant the approval for the entirety of that acreage or if it would just apply to the commercial and the four model homes.

Community Development Director Wakefield

- The reason she raised the issue of the model homes was just to say that she has copies of the sewer permits for the model home.
- If Council approves the proposal to give us authority to issue all of the permits that are in the sewer service area, then they can apply for and receive permits for all lots provided they meet all the standards and regulations.

Councilmember Zahner Bailey

- One of the questions that came to them from Kensington Farms in particular had to do with concerns they had raised that for a portion of Weiland's Development; they were concerned they had been more massive grading that had taken place in order for that particular applicant to try and get a more gravity feed for sewerability.
- Those are the sorts of things that if we were to give this a bit more review, we might be able to distinguish.

Community Development Director Wakefield

- All of their grading plans have been reviewed by not only the state and the corps, but also by the staff and the grading plan is in compliance with all of the regulations.
- She knows the community has raised some concerns and we have asked them to point out specifically what concerns, but they have not received any additional information to go and verify.

Councilmember Zahner Bailey

- The concerns were they believed the Weiland Development under Fulton County should not have been entitled to sewer because of its placement in the Etowah.
- The parcel on Webb Road and Cogburn that deals with Mr. Carson's application she had asked the question on September 15th as to whether or not there was evidence that we had an LDP that had been issued prior to Fulton County and asked Community Development Director Wakefield to address that issue.

Community Development Director Wakefield

- She has many permits dealing with the Windward Village which she had stated previously is a seventy five acre development that was phased and she has the grading plan that shows the entire site including the two residential parcels; the two office parcels and the office parcel as part of the grading plan that was approved by the County in 2001.
- She also has the as built plans for the sewer and she has various plans for different sections and she has the as built plans that show the sewer that runs along the road, then it goes up into Mr. Carson's property and then it goes off toward the schools.

Mayor Lockwood

- Would like to move forward on this motion and not just individual properties.

Councilmember Zahner Bailey

- This global motion speaks to individual parcels with which she has concerns.
- For the record in not getting a response about the LDP, in terms of whether or not we had a copy of it, the City Attorney had sent a note to all of them indicating he was going to inquire with Mr. Carson's attorney and asked if he could state whether or not he had received a response from them.

City Attorney Jarrard

- He has not.
- To be very clear, Mr. Carson wrote him back and said he has LDPs for a multi-phased development and that was communicated through his attorney.
- He indicated it would be no problem to give us a copy, but he has not gotten back with it yet.
- Community Director Wakefield has a stamped LDP or grading permit for the entirety of that property, so that is a Land Disturbance Permit.

Councilmember Zahner Bailey

- Councilmember Lusk mentioned about the comment “deemed appropriate” for sewer service and that is a much more generic reference and she appreciates the fact that to say these parcels are all entitled would not be a legally sound statement given they have not had a vested right historically.
- She asked if there was something more specific that this motion should be tied to and not just all parcels that are color coded on a map.

City Attorney Jarrard

- The motion is broader than just there is a since of urgency and these individuals are on the threshold of sewing the City.
- The difference was at the time of the Sembler motion we had not had a Council vote on a map yet and to him the vote on the map signified a threshold.
- He feels comfortable with the motion.
- The City is his client and on September 15th the City made a declaration and that is why he took the approach that he did with respect to how he drafted the motion.

Councilmember Zahner Bailey

- Based on what she has heard is prior to September 15th, this motion would have been very different, but because September 15th represents sewer extension. This became a broader motion that is not based on land disturbance specifically or since of urgency.

City Attorney Jarrard

- Yes, it would have been a different motion because he does not know if he could tether it to a map.

Councilmember Zahner Bailey

- Asked if there would be any reason to have the motion tie instead to a time table not of September 15th because there had been a lot of discussion historically about that which had been sewer available prior to us becoming a jurisdiction.

City Attorney Jarrard

- There is not legal reason why not to do that.
- The only objective he had in mind based upon the feedback he got was to make it as utilitarian to staff as possible, but there is not reason why it could not reach back that far in time.

Councilmember Zahner Bailey

- Based on what she has heard some members say in regards to what was approved on September 15th for consistency, it would seem that if they are going to continue to support this motion that at a minimum having the date parallel the time frame prior to becoming a jurisdiction would at least be more consistent with what she has heard a majority of Councilmembers state.

Councilmember Thurman

- According to Fulton County, all of the parcels that were on their map were in their view deemed to have sewer availability prior to that time.

City Attorney Jarrard

- That is a great point and he does not know the answer with respect to the letter they have.
- It may be that every parcel on that map is going to have someone that has a letter that says they had it.

Councilmember Thurman

- She is correct in saying that none of these parcels that they approved had already been approved in the map the Fulton County presented to us, so according to Fulton County all of those parcels plus some additional ones are actually in their area was not sewer extension according to Fulton County.

Community Development Director Wakefield

- That is correct.

Councilmember Thurman

- She thinks we need to go ahead and approve all of them at the same time.
- If they vote parcel by parcel, they are wasting a tremendous amount of staff time and spending a tremendous amount of legal fees and it is costing the tax payers money every time we have to discuss this over and over again.
- They agree with Fulton County on a map except for a few parcels so lets go ahead and move forward.

Mayor Lockwood

- For the record, he would like to make sure everyone knows the actual IGA that Fulton County would approve and Fulton County's map did show additional areas so he firmly believes these properties are well within the boundaries of the sewer areas of Fulton County whose sewer policy it is.
- He would have to agree with Councilmember Thurman about the time and money.
- We need to move forward.

Councilmember Tart

- Because this motion is contingent on the sewer service area map that was passed by the majority of this Council and he respects that he was under the impression that although there was a majority vote for that sewer service area map in order for that map and IGA to become legally defensible or a legal policy, Fulton County would also have to accept it.
- Asked if that was correct.

City Attorney Jarrard

- That is correct.
- That map is the best manifestation of the will of the Council to go on.

There was no further Council discussion on the motion.

Vote: The motion passed 4-3, with Councilmember Zahner Bailey, Councilmember D'Aversa and Councilmember Tart voting in opposition.

NEW BUSINESS

City Clerk Marchiafava read agenda item 08-688.

Acceptance of the Milton Trail commitment from Canine Assistance.

Public Works Director Dan Drake

- We have a letter dated September 17, 2008 from Canine Assistance.
- As part of their LDP, they are required to put in the Milton trail and this letter states they will comply with the Milton Trail development standards by dedicating the right of way by September 30, 2008 and constructing the trail by September 1, 2010.
- They are asking for this additional time to acquire grant funding to construct the trail.
- There would also be one interim milestone of September 1, 2009; they would provide us with at written status.

Councilmember Tart

- Asked if we should expect letters from all of the other developments that are within the trail system.
- Wondering why we need to approve this.

Public Works Director Drake

- This is just acceptance of this letter because the Milton Trail Ordinance does not assume that it will be built prior to LDP.
- Based on the 501C3 status and us working with them and their ability to get funding over the next couple of years, he just wanted to make sure we had Council's acknowledgement and acceptance of this decision to move forward.

Councilmember D'Aversa

- Asked how the trail committee feels about it and if they had looked at this.

Public Works Director Drake

- It has not gone in front of them.

Councilmember D'Aversa

- Asked if the two year time frame would be a challenge with regard to the trail system.

Public Works Director Drake

- No, this is not even phase 1 or 2 on their system.

Motion and Second: Councilmember Hewitt moved to approve acceptance of the Milton Trail Commitment letter from Canine Assistance. Councilmember Lusk seconded the motion.

Discussion on the motion:

Councilmember Zahner Bailey

- In the future if there are other requests; it may be helpful to engage the Bike and Pedestrian Committee.

There was no further Council discussion.

Vote: The motion passed unanimously.

City Clerk Marchiafava read agenda item 08-689.

Approval of a Memorandum of Agreement to participate in the North Fulton Comprehensive Transportation Plan (CTP).

Public Works Director Drake

- This was presented at the June 9, 2008 Work Session.
- The Cities of Alpharetta, Johns Creek and Sandy Springs have already signed the agreement.
- We are talking about a 1.25 million dollar study of the five cities: Milton, Roswell, Alpharetta, Johns Creek and Sandy Springs.
- Our share is \$23,782 and is in the FY09 budget.
- Asking for approval for the City of Milton to participate in the MOA as well as the CTP.

Councilmember Zahner Bailey

- This has some language that refers to the Atlanta Region Commission having some authority, not just over transportation planning, but it also made reference to some land use decisions and it causes her some concern.
- She asked what approval of this would provide with regards to land use decisions and providing authority to an outside agency beyond the City of Milton.

Public Works Director Drake

- ARC is not a party to this.
- They are the entity that is bringing us together.
- These studies are typically done as county studies and they have provided us the opportunity for these cities to come together to do almost a County plan.
- This allows us to have the ability to provide input to ARC for transportation decisions as well as some potential land use decisions.
- This gives us the ability to provide input to ARC in their Regional Transportation Plan and the priorities of the five cities.

City Attorney Jarrard

- We are not going to be seeding away any of the City's constitutionally zoning power.
- Some of the language is not the way he would have drafted it.
- It gives him a little bit of concern.
- All in all he thinks we are ok.
- The reality is the Council is the elected body of the City of Milton and no one can take that authority away from you.

Councilmember Zahner Bailey

- Asked if he could be specific about where his concerns are.

City Attorney Jarrard

- There was the make up of some of the sub committees and the steering committees.
- Milton does not have the "place at the table" that he would like them to have.
- Some of the representation is a little deluded based upon our size.
- He does not know that it will more than a recommendatory entity, so it is not something he would get to "up in arms" about.

Councilmember Zahner Bailey

- To the point of deluded of representation, she asked if there was a way after the fact to be able to address it.
- The Mayor is going to have a deluded voice at that table and is there a way to modify that or could we adjust that so that Mayor Lockwood does not have a deluded voice in representing Milton.

Public Works Director Drake

- There are two different things.
- There is the stake holders committee which he thinks is what we are talking about with the deluded voice.
- The Stake Holders Committee is our representation of the twenty people and there are two or three that would be on that committee and that is based on our population within the five cities.
- Anything that cannot be decided in the Stake Holders Committee goes to the Policy Committee and it is made up of five and possibly six.

- It just gave all the other cities the ability to say they are equally represented by population at the table of the Stake Holders Committee but the final decision if they are difficult will go to the policy committee which is the five mayors.

Councilmember Zahner Bailey

- The reality is since we have more land than some of these areas we will end up with more transportation issues possibly.

Mayor Lockwood

- He sees that point, but part of it is governed by population and we have smaller population numbers so there may be less traffic issues.

Councilmember Zahner Bailey

- At this point would there be any way to modify that or could we at least say as a Council when we approve it that we would like for them to consider more equal representation on that Stake Holder Committee.

Mayor Lockwood

- All of the other cities agree with it and he is comfortable with it.

City Attorney Jarrard

- It stood out at him when he was reading it is that it will add additional responsibility to the Mayor to be diligent.

Public Works Director Drake

- If we wanted more representation we would have to pay more.
- Our representation is based on the amount we are paying as well.

Councilmember Tart

- Asked if any final plan would have to come before Council for the final approval regardless of the unequal representation.

Public Works Director Drake

- Based on the approval of this plan, it would have to come from the policy committee and three of the five councils would have to approve it before it moves forward to ARC.

Motion and Vote: Councilmember Thurman move to approve a Memorandum of Agreement to participate in the North Fulton Comprehensive Transportation Plan (CTP). Councilmember Lusk seconded the motion. There was no Council discussion. The motion passed unanimously.

City Clerk Marchiafava read agenda item 08-690.

Approval of a change order in the amount of \$65,000 revising the City of Milton and CH2MHILL contract for additional services for National Pollutant Discharge Elimination System (NPDES) Stormwater in 2008.

Public Works Director Drake

- This is a request for additional services
- CH2M Hill and public works operate in good faith with the City and our partnership be providing the necessary program management and services for development for the NPDES, the preparation for and response to the audit, as well as the development of the necessary procedures for the City for NPDES.

- This amount was budget for this purpose in FY 2008, but the City Manager and CH2M Hill did not execute a change order with the City.
- We are coming after the fact and he apologized for bringing this after the fact and they will not ask for this again in this manner.
- We are effectively putting out a hold on NPDES efforts for some of the work that we have until we get approval from the City at the November 17th meeting and presentation at the November 10th work session to talk about all of the NPDES that we are doing for the end of 2008 as well as for 2009.
- We will wrap up the other pieces of the 2008 commitments to them in December and provide them with a 2008 annual report in early January of 2009.
- We ask approval of this request for additional services.

Motion and Second: Councilmember Hewitt moved to Approve of a change order in the amount of \$65,000 revising the City of Milton and CH2MHILL contract for additional services for National Pollutant Discharge Elimination System (NPDES) Stormwater in 2008. Councilmember Thurman seconded the motion.

Discussion on the motion:

Councilmember D'Aversa

- Asked if the \$65,000 was for the entire scope of services.

Public Works Director Drake

- It is for January through September for work that has already been performed.
- We will be coming before you again for the fiscal year 2009.

Councilmember D'Aversa

- Asked if he had an estimate on how much that will be.

Public Works Director Drake

- There are multiple elements that are in the budget that total approximately \$425,000 and that was budgeted for.
- Some of it will be for CH2M Hill and some of it will not be.
- He will go through that at the work session on November 10th.

Councilmember Zahner Bailey

- Going forward if we could get a break down of what comprises that \$65,000 because it encompasses a number of different active.

Public Works Director Drake

- He will take a look at that.

There was no further Council discussion.

Vote: The motion passed unanimously.

City Attorney Jarrard

- Would like to make a comment on the MOU discussed.
- He wanted to give extra comfort level with respect to some of the discussion.
- The MOU does provide that any City can get out of the agreement with sixty days written notice.

City Clerk Marchiafava read agenda item 08-691.

Approval of an agreement with Blount Construction Company, Inc. for gravel road reconstruction in the amount not to exceed \$201,297.60.

Public Works Director Drake

- The objective of this contract is to provide a comprehensive upgrade to 20% of the City's gravel roads.
- This includes, ditch shaping, crown shaping, installation of asphalt, installation of new drainage pipes, replacement of driveway pipes, cutting foliage and dust abatement application.
- The City selected Blount as the lowest competitive bid and staff asks for approval for this contract.
- Once we get approval we can give notice to proceed.

Motion and Second: Councilmember D'Aversa moved to approve an agreement with Blount Construction Company, Inc. for gravel road reconstruction in the amount not to exceed \$201,297.60. Councilmember Thurman seconded the motion.

Discussion on the motion:

Councilmember Thurman

- Should we assume going forward there will be a similar amount for 20% if we can afford it in our budget.
- Asked how often this would have to be repeated.

Public Works Director Drake

- This is a more substantial contract.
- We do grading and dust abatement twice per year on 100% of the roads.
- He is not sure when the last time this was done on any of the roads here, so this could last 5 to 10 years hopefully.

Councilmember Zahner Bailey

- Not all of them need the same level of reconstruction as this first 20%.
- In the recent past there have been some discussion on looking at different material other than traditional gravel, will this be a 57 stone.

Public Works Director Drake

- True gravel driving service aggregate.

Councilmember Lusk

- Asked how many competitive bids we received.

Public Works Director Drake

- He thinks it was eight.

Councilmember Tart

- Asked if we automatically choose the lowest.

Public Works Director Drake

- Yes.

Councilmember Tart

- Asked what kind of procedure we go through to make sure this company is qualified.

Mayor Lockwood

- They have to qualify before they submit their bids so it is not just the lowest one with the cheap number.

Acting City Manger Lagerbloom

- It is the standard practice of the City in a competitive bid process not to ultimately have to choose the lowest bid because they are the lowest bid.
- In this particular case the lowest bid is qualified as determined by the Public Works staff.

Councilmember Lusk

- One of the primary requirements on government contracts, contractors provide 100% payment performance bonds so that is an additional safeguard that they will perform the work that is required and pay off all of their labor and material debts.
- Blount has furnished all of the required bonds.

There was no further Council discussion.

Vote: The motion passed unanimously.

City Clerk Marchiafava read agenda item 08-692.

Approval of a professional services agreement with Peek Pavement Marking, LLC for Annual Citywide Street Striping.

Public Works Director Drake

- The City opened a request for bids for multi-year annual citywide street striping contract in July 2008.
- We anticipate purchasing an annual volume of solid white and yellow paint, paint skiff solid white and yellow thermal plastic, thermal plastic skiffs and raised pavement markers.
- The City selected Peek Pavement Marking as the lowest best responsible responsive vendor.
- This will automatically terminate and renew August 17, 2013.
- We have sixty days prior to December 31st if we decide not to renew.
- The total amount is \$202,000 over multiple years and we have \$70,000 in this year's budget.

Motion and Second: Councilmember D'Aversa moved to approve a professional services agreement with Peek Pavement Marking, LLC for Annual Citywide Street Striping.

Discussion on the motion:

Councilmember Lusk

- Asked if the total contract amount was in excess of \$200,000.

Public Works Director Drake

- It is \$201,000 almost the same amount as the prior.
- That is for five years.

Councilmember Lusk

- Asked if there were any escalators.

Public Works Director Drake

- They have a firm price until the end of 2009.
- Beyond that we would have to negotiate with them.

Acting City Manager Lagerbloom

- The contracts reads that prices are frozen through the end of the year 2009 and if the prices escalated, we would still have an open contract up to that dollar figure of \$201,000, it just may cost us if the prices increase, conversely if prices decline it just may cost us more or less to do a certain segment of the road.

Public Works Director Drake

- And if the prices do not stay the same then we would almost have to go back out to bid again after 2009.

Councilmember Zahner Bailey

- Asked if prices escalate, which would mean we cannot effectively stripe as many of our roads as we want, do we have the ability to take it back out to bid despite that five year contractual obligation.

Acting City Manager Lagerbloom

- He thinks the easiest thing would be just not to renew annually since we have the sixty day “kick out” clause.

Mayor Lockwood

- That is something staff can check by seeing what the market is paying and quoting at the time.

Public Works Director Drake

- If you look at Exhibit E, they do have the schedule of prices all the way through 2013 and there is a small escalation of these prices.
- He had gotten confused because they had said the prices were only good until the end of 2009.
- They then came back in and filled in after the 2009.

There was no further Council discussion.

Vote: The motion passed unanimously.

City Clerk Marchiafava read agenda item 08-693.

Approval of a Resolution to Create the Milton Grows Green Committee and its Governing Board and for Other Designated Purposes.

Resolution No. 08-10-46

Councilmember Zahner Bailey

- This Resolution is in direct follow up to the September 8th work session.
- The committee has worked hard over the last nine months to provide a concrete project and value to Milton at no cost to the City in a completely volunteer capacity.
- Projects have included a pilot recycling program.
- Various initiatives tied to the state requirements for the NPDES programs.
- A revitalized Adopt-A-Road program, an Adopt-A-Stream program and so much more.
- They requested formal recognition based on their work and the initiatives to date.
- She is proud to put forward this resolution to formalize this committee.
- She recognized Charles Slade, Jon McPhail, Cindy Eade, Francia Lindon and Marc Arrington who were in the audience and thanked them for their patience and hard work.

Motion and Second: Councilmember D’Aversa moved to approve a Resolution to Create the Milton Grows Green Committee and its Governing Board and for Other Designated Purposes. Councilmember Tart seconded the motion.

Discussion on the motion:

Councilmember D’Aversa

- Made a sincere appreciation to the committee.
- Some of her students have directly benefited from participating.

Mayor Lockwood

- He supports what they are doing in the committee.
- Asked if there was an opportunity to have more volunteers and representation from each Council Member and how it is set up with staff.

Councilmember Zahner Bailey

- It identifies the initial 11 members which is the governing board which allows it to continue with the programs in place but as was mentioned at the work session everyone is encouraged to provide additional committee members.
- There is nothing in approving this Resolution that precludes anyone else from being a party to that committee.
- We are blessed that there is a broad representation from across Milton and virtually every district is represented.
- The only district that is not specifically represented is Councilmember Tart, but he has provided some input along the way with regards to the mission, the activities, and the programs so anyone is more than welcome to continue provide resources from citizens that live in district 6.

Mayor Lockwood

- Asked how we are handling this staff wise.

Councilmember Zahner Bailey

- Currently it has taken zero staff time.
- The NPDES programs, Milton Grows Green at no cost are helping to fund effectively some of the requirements by state law for CH2M Hill and Milton.
- Once the sanction is put in place a lot of those efforts will be formally reported to the city.
- There has been no staff time and zero cost.
- This committee is not putting forth anything that binds the city.
- They make recommendations and bring them to staff.

Public Works Director Drake

- In our commitment letter to the state that was submitted in December 2007, we committed that we would have volunteers to work on the storm drain markers as well as the river clean up efforts and this committee is a great resource to get that volunteer base.
- The recycling efforts that are happening both at the Bell Park and City Hall have been provided by one of the committee members.

Councilmember Thurman

- She thinks this is a great committee and thanked everyone.
- Asked if the Resolution had been reviewed by legal counsel and staff to get their input.
- If it becomes officially sanctioned then it will require staff time.
- The part that bothers her is it limits it to 11 people and it says after the initial appointment the board appoints the other members, which is very different from any other board we have.
- She is not sure we can have an official board where they appoint themselves.
- Our Charter specifically states, commissions and boards have to have one per district.
- Asked staffs input on those two things.

City Attorney Jarrard

- He has reviewed it.
- He is mindful of her concern and we have deviated from that before.

-
- This is not a board or commission or authority and that is the way we have traditionally been allowed to deviate from that.
 - Once this committee gets started the subsequent replacement of members will be made by the committee itself as opposed to Council filling the positions.
 - It did not jump out to him as being in conflict with the Charter, but he is taking a much focused view of the Charter to get there and that is consistent with how we have done some of the other committees.

Councilmember Thurman

- Asked the City Attorney if in his practice if he had seen in his practice where committees self appoint each other.

City Attorney Jarrard

- To be fair, he is not used to seeing that in committees but in authorities.
- Once you create an authority, you are done and then the authority is almost self perpetuating.
- He is used to seeing that in the more autonomous authorities and entities that are created because really they are sort of a fire and forget.
- Do not be too concerned because this is a committee that is created by you and you would always have the ability to rescind or band it.

Councilmember Thurman

- Asked if they had looked at it as far as how much staff time it will take.
- Our time is almost as precious as our money and there are a lot of things like the historical preservation committee that we have been trying to get going and keep being told we do not have staff time for it.

Acting City Manager Lagerbloom

- This committee as it exists to this point has not been a burden upon the City staff time.

Public Works Director Drake

- Up to now this has really not taken any staff time.
- He has gone to these committee meetings for his own benefit.
- The only staff time he sees this could take is letting people in City Hall after hours.
- There also could be some potential of reviewing some of the initiatives but he does not see that being burdensome.

Councilmember Zahner Bailey

- As an example of the initiatives, maybe a different way to also think about this is that not only has it taken zero staff time, but they have relieved staff from work that otherwise would have been required by state law.
- As an example CWS has offered free services for a pilot recycling program that under our facilities agreement with Bell Memorial Park is something that if it were not for Milton Grows Green, we would have to pursue another alternative that would have cost.

Mayor Lockwood

- He understands some concerns, but obviously this is a great committee and the goals and intents of the committee are very good.
- He would not want to see any of the 11 members not be involved after they have put so much work in to it.
- We can open it up so everybody feels like their district is represented.

Jon McPhail, 640 Doris Road, Milton Georgia

- He is one of the Co-Chairs of the committee.

-
- There are more members of the committee than the 11 member governing board.
 - We would like to have as many as possible.
 - Even doing the research on various issues that we would like to be able to come back with meaningful input to staff or City Council requires countless man hours.
 - If any of the Councilmembers have anyone in their district who would be interested in joining us and helping us in that endeavor we would welcome them with open arms.

Councilmember Hewitt

- He would like to see it tweaked a little bit where the committee of governing board of members; if we could include one more person from district 6 so we could make sure we have all the districts represented and moving forward to always have those represented.

Amendment to the Motion: Councilmember Thurman moved to change the body to include 12 members with one member from each district, to include after the initial appointments, any new appointments would have to be approved by the City Council based on the recommendation by the Governing Board. Councilmember Hewitt seconded the motion.

Vote: The motion to amend passed unanimously.

Second Amendment to the Motion: Councilmember Thurman moved to change the body to include 13 members rather than 12 with one member from each district, to include, after the initial appointments, any new appointments would have to be approved by the City Council based on the recommendation by the Governing Board. Councilmember Hewitt seconded the motion.

Vote: The motion to the second amendment passed unanimously.
(This amendment rescinds the first amendment to the motion.)

Vote: The original motion as amended passed unanimously.

Oath of Office

Mayor Lockwood administered the oath for the Milton Grows Green Committee to the following members: Charles Slade, Cindy Eade, Marc Arrington, Jon McPhail, and Francia Lindon

MAYOR AND COUNCIL REPORTS

Councilmember Zahner Bailey

- Rivers Alive was awesome.
- There were seventy people.
- Next year she wants everyone in their waders in one of our water ways.
- The storm drain markers are awesome.

STAFF REPORTS

Acting City Manager Lagerbloom

- The 911 transition was successful.
- Marie Latta will be here for the work session to make a presentation.
- The contract to engage in her service will be on the agenda for October 20, 2008.

Mayor Lockwood

- She is quite an inspiration.
- She has dealt with and deals with a lot more than hopefully have combined and she has a positive outlook so he looks forward to hearing her presentation to the Council.

Added by Motion and Vote
EXECUTIVE SESSION

The purpose of the Executive Session is to discuss potential land acquisition.

City Attorney Jarrard

- Asked to add pending litigation to the Executive Session.

Motion and Vote: Councilmember Lusk moved to adjourn into Executive Session to discuss potential land acquisition and pending litigation at 8:08 p.m. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously.

RECONVENE

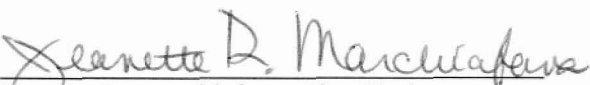
Motion and Vote: Councilmember Hewitt moved to reconvene the Regular Meeting at 8:43 p.m. Councilmember Zahner Bailey seconded the motion. There was no Council discussion. The motion passed unanimously.

ADJOURNMENT

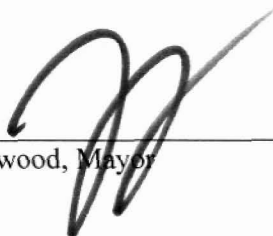
After no further business, the regular meeting adjourned at 8:44 PM.

Motion and Vote: Councilmember Thurman moved to adjourn the Regular Meeting. Councilmember Lusk seconded the motion. There was no Council discussion. The motion passed unanimously.

Date Approved: October 20, 2008



Jeanette R. Marchiafava, City Clerk



Joe Lockwood, Mayor