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The Work Session of the Mayor and Council of the City of Milton was held on January 12, 2009 at 6:00 PM, Mayor Joe Lockwood presiding.

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

Mayor Lockwood

- Welcomed everyone to the Work Session.
- Work Sessions are a more informal setting to update the Council on business items.
- No votes will be taken.
- Public comment is allowed that is germane to an agenda item.
- Anyone wishing to speak must fill out a public comment card and turn it into City Clerk staff.
- Public comment will be allowed for a total of ten minutes per agenda item and not more than two minutes per person.
- Public comment will be heard at the beginning of each item.
- Once the item is called, no other public comment cards will be accepted.
- There are six items on the published agenda.
- Item number two has been moved to the February 2, 2009 Regular Council Meeting.

City Clerk Marchiafava read agenda item #1.

Discussion of the right-of-way privatization policy.

Mayor Lockwood

- Asked for public comment on the item.

Laurie Bruner, 320 Rissington Passage, Milton, Georgia

- She is President of the Crooked Creek Home Owners Association.
- Been a resident in Crooked Creek since 1998.
- Gating is important to their entire community.
- Initially, Creek Club Drive did not go through to Francis Road.
- It was the year 2000 before it actually reached it.
- She is not sure the community was designed for use by residents outside the community.
- At the annual meeting in 2008 there were two initiatives that were brought up.
- One dealt with their amenity project and improvements to it.
- That included the construction of a stone wall along Highway 9.
- The other was privatization of their roads.
- There were 437 votes cast and out of those votes, 352 voted in favor of privatization of the roads and taking responsibility for the maintenance of them.
- They asked Council for consideration, on behalf of all the residents, to do what they need to do to limit access.
- It is a matter of protection and safety for the entire neighborhood.

Mike Thomas, 14765 Creek Club Drive, Milton, Georgia

- Representing the community as a board member and a homeowner.
- Presented the following Power Point Presentation:

Crooked Creek HOA

Preserving Property Values and Protecting lives

Overview

- Crooked Creek Overview**
- Community Support**

- Purpose for Gating**
- Next Steps**

Community

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

Community

- **Golf, Swim and Tennis Community**
 - Alpharetta Athletic Club Golf Course (formerly Crooked Creek GC)
 - Golf Course is separate and private
 - Membership for homeowners is optional
 - Community is unhappy with the name change
 - Would prefer the name to be Milton Athletic Club

(new name being considered by owners)

Community

- **Golf, Tennis & Swim Community**
 - Community Amenity Area
 - Run Down – requires \$1,000,000 renovation at a minimum
 - Not designed for 640 homes plus walk in's
 - Located at front (Hwy 9) entrance
 - Directly on border of Forsyth County
 - Surrounded by Commercial and High Density Housing
 - Membership is included with HOA dues of \$750/year
 - 9 Tennis Courts with Full Time Staff
 - Swimming Pool, Playgrounds and Clubhouse
 - Parking lot is used by community at large as parking lot, meeting spot (drugs, hook ups, etc)
 - Amenity Area is used by neighboring Communities (trespassing)

Voice of the Community

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

We have also tried to get additional Stop Signs, Speed Humps or Tables, Crosswalks, Radar Signs – anything to help reduce our traffic safety issues. Fulton County allowed nothing. Milton allowed three stop signs.

We have also been studying an upgrade to our Amenities for nearly 2 years

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

Purpose of Gating

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

- **Preserving Property Values**
 - **If Crooked Creek Fails it Hurts all of Milton**
- **Increasing Safety for our Residents**
 - **It's only a matter of time before someone is seriously injured or worse**
- **Preserving Property Values**
 - Heavy traffic on Creek Club Drive is making homes more difficult to sell even considering the current market conditions
 - Sale prices are dropping faster than the averages
 - This brings entire community value down and this affects the whole city
 - Community could fail if traffic issues are not addressed
- **Safety**
 - We have smaller than average lots in Crooked Creek so the homes are closer to the road
 - Many parents will not allow children to play in front yard
 - Many homes do not have much of a back yard because of creeks or the golf course or simply because the yards are small
- **Safety Continued**
 - Steep Terrain and blind curves also make safety issues bigger
 - It is dangerous to walk or ride a bike at certain times
 - Many unknown vehicles loiter in community
 - It is only a matter of time before someone, perhaps a child is seriously injured or worse.
 - There have already been many close calls and many pets killed.
- **Why is there Cut Through Traffic**
 - Study in 2006 showed 3,500 cars per day – in a location that excluded the entrance to 150 homes
 - Much higher traffic today
 - Hwy 9 traffic is growing exponentially
 - Will soon be as bad as State Bridge Rd was before widening
 - Opening of Westside Parkway will also increase traffic
- **Cut Through Traffic continued**
 - Commercial Development is growing exponentially
 - New Wal-Mart (Forsyth), Target and Kohl's to name a few
 - Bottle neck at McFarland Road/Hwy 9 backs up to Golf Course
 - Soon it will back up to our front entrance
 - Already forces people to cut through
 - Hopewell/Cogburn Traffic is also redirected by huge bottle necks
- Crooked Creek is in a unique location in Milton – affected by Hwy 9 and 400 more than most areas. In the middle of the highest density area in the City.

Final Thought

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

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

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

Our property values and resident safety is our only concern.

It's only a matter of time

Next Steps

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

- **Others?**

Mike Stevens, 570 Greenview Terrace, Milton, Georgia

- We would like to reserve the right to speak after the staff's presentation.

Mayor Lockwood

- They can discuss it after Council discussion.

Naveed Jaffar, 4206 Long Branch Drive, Marietta, Georgia

- He is the Traffic Engineer with Florence and Hutcheson, who prepared the traffic study for the Homeowners Association.
- He is available to answer any questions on traffic.

Steve Smith, 380 Majestic Cove, Milton, Georgia

- He is a commercial real estate developer and has lived at his current address since 2000.
- Has been in the real estate business for more than 25 years.
- He has spear headed the re-development of the amenity project at Crooked Creek.
- The hope to begin the project next month.
- In gaining consensus on the gating project and amenity project, they had probably 35 hours of town hall meetings.
- They got consensus from the neighborhood to make the projects a reality.
- They got a lot of feed back from the community as to what is very important.
- They want to preserve and enhance the quality of life in the community in addition to the property values in our community.
- They believe the gating is critical to both items.
- It involves the safety of our children and the value of our homes.
- The appreciate Council's attention to the matter because it is very important.
- As relates to the percentage of approval, you cannot get 100% of anyone to agree that the sun will come up in the morning, so we asked for a percentage substantially less than that.
- He thinks anything over 75% is unrealistic.
- At any point in time there are 5 to 10 percent of the homes in transition in the neighborhood.
- They would appreciate Council's support.

There was no further public comment.

Public Works Director Drake

- Gave the following Power Point Presentation:

Agenda

1. Existing Milton Policy
2. Review of other jurisdictions
3. Recommended changes to policy text
4. Staff recommendations for next actions

Existing Milton Privatization Policy

- Privatization Policy is part of the Community Service Policy adopted as an ordinance on June 7, 2007
- Formal Application to Public Works
 - Requires petition signatures for 100% of all land owners affected (PW to determine area of impact)
 - HOA not allowed to submit application on behalf of HOA
 - Each land owner (not renter) must sign petition
- File financial statements of assets to ensure HOA understands future cost associated with privatization
- Private to Public (Publicization Policy) addressed

Review of Other Georgia Jurisdictions Policies

- **City of Johns Creek**
- **City of Sandy Springs**
- **City of Alpharetta**
- **City of Roswell**
- **City of Suwanee**
- **Fulton County**
- **Cobb County**
- **Lee County**
- **Forsyth County (No privatization policy)**

Common Policy Features

- A. Pedestrian Access
- Alpharetta – Pedestrian access not be restricted
 - Cobb – Gate must not unreasonably restrict previously established pedestrian access
 - **Milton – Not addressed**

Common Policy Features

- B. Connection to 2 or more Collector Streets or higher functional classification
- Johns Creek - Functional classification of “local streets” that do not connect two or more collector roads
 - Sandy Springs – Does not connect two or more different collector roads
 - Fulton – Only local streets, does not connect two or more different collector roads
 - **Milton – Not addressed – Left out from Fulton County policy**

Common Policy Features

- C. Traffic flow, interconnectivity
- Alpharetta – Is not a critical link in roadway system which maintains traffic flow from one destination to another or does not create an undue burden on traffic or adjacent roadways
 - Roswell – Gates may be denied based on traffic conditions or interconnectivity needs
 - Lee – Not eliminate traffic movement between existing subdivisions
 - **Milton – Not addressed**

Common Policy Features

- D. All policies reviewed require 100% support, but for whom?
- Subdivision/affected roadway(s)
 - Johns Creek

- Sandy Springs
- Alpharetta
- Roswell
- Lee County
- Neighborhood as defined by traffic engineer
 - Fulton County
- All affected residents
 - Suwanee
 - **Milton**

Common Policy Features

E. HOA Provision

- Sandy Springs – Where a neighborhood has a HOA or other legal mechanism allowing a group less than previously stated required percentages to represent their position on matters such as these, this mechanism may replace the petition process as approved by the City Manager after consultation with the City Attorney
- **Milton – HOA provision specifically excluded (May 17, 2007 City Council Meeting)**

Common Policy Features

F. Not restrict access to public facilities

- Cobb – Gates may not restrict access to any public right of way or publicly owned property within the proposed development
- Alpharetta – Street does not include access to amenities or features that are intended for use by the general public
- **Milton – Not addressed**

Common Policy Features

G. Maintenance guarantees by HOA

- Cobb – County must be properly indemnified against any liability
- Alpharetta – Private street agreement executed which addresses HOA, maintenance, utilities, easements, emergency access, liability
- Lee – Legally incorporated HOA, master deed maintenance of private streets and improvements is responsibility of HOA and HOA required to establish maintenance fund
- **Milton – Requires financial statements and HOA understanding of future costs**

Common Policy Features

H. Emergency Access

- Fulton, Johns Creek, and Sandy Springs – Consult with emergency service providers, FC BOE, and Postmaster
- Alpharetta – Ensure access is not restricted to law enforcement, emergency vehicles, post office, school buses, and city personnel
- Cobb – Arrangements for access of emergency service vehicles and non-emergency service vehicles
- Lee – Plan providing access for maintaining and operating by fire, police, emergency vehicles, and city personnel
- **Milton – Not specifically addressed, but gate standards require fire marshal approval**

Recommended Changes to Existing Policy

1. Restrict to “only local streets, that do not connect two or more different collector or higher classified roads”
 - Such study should be addressed in the CTP Process
2. Protect existing pedestrian access and access to public uses
3. Allow for slightly less than 100% support of affected land owners for larger neighborhoods
 - 20 lots or less – 100%
 - 21 to 100 lots – 95%

- 101 lots or greater – 90%

Recommended Changes to Existing Policy

4. Provide detailed petition requirements
5. Required coordination with Emergency Service Providers, Fulton County BOE, and Postmaster
6. Remove Section 4 ‘Becoming Public’ from Policy
7. Add maintenance guarantee by incorporated HOA or other requestor

Staff Recommendations for Next Actions

- I. Keep 100% rule in effect until the following recommendations are incorporated into the ordinance:
 - (1) Restrict to “only local streets, that do not connect two or more different collector or higher classified roads”
 - (2) Protect existing pedestrian access and access to public uses
 - (4) Provide detailed petition requirements
- II. Once above are included, recommend change to 100/95/90 graduated % approval required scale (3):
 - 20 lots or less – 100%
 - 21 to 100 lots – 95%
 - 101 lots or greater – 90%

Staff Recommendations for Next Actions

- III. Clarify existing language
 - (5) Required coordination with Emergency Service Providers, Fulton County BOE, and Postmaster
 - (6) Remove Section 4 ‘Becoming Public’ from Policy
 - (7) Add maintenance guarantee by incorporated HOA or other requestor

IV. The discussion of modifying access to Creek Club Drive be addressed in the CTP process starting 1/22/09

IV Functional classification – streets grouped into classes according to character of traffic service intended to provide and defines roles streets play in serving flow of trips through entire network

For collector roadways where privatization is requested, functional classification overrides

Functional Classification review is part of Comprehensive Transportation Plan process

Functional Classifications requests/concerns should be directed to Comprehensive Transportation Plan (CTP)

Stakeholders Advisory Committee (SAC)

CTP kick-off meeting January 22

Functional Classification analysis beginning Spring 2009

Councilmember Lusk

- A lot of these issues revolve around definitions.
- Asked if “all affected residents” was defined anywhere.

Public Works Director Drake

- In number 2 of the privatization policy, it says that the community service department which is the public works department shall make determination upon area of impact, so it provides that the Public Works Department will determine what that area of impact/affected owners.
- That is the reason it comes back to the recommendation of connecting two major streets because once you connect two major streets, it is difficult to determine what that area of impact is.

Councilmember Lusk

- So the way it is now it could include people on Thompson Road, Francis Road, up and down Highway 9, etc.

Public Works Director Drake

- You could go to the immediate roads, districts 5 and 6, City wide.
- That is why they would rather not have that in there and have the Comprehensive Transportation Planning Process, where you have the full body of the city residence providing that input to the collector road.

Mayor Lockwood

- In talking about protecting the pedestrian access, asked if there was a way to have it open for pedestrian access.

Public Works Director Drake

- He thinks we could put some type of easements through there.
- The gates would have to open for the pedestrians and he contemplates that could be done.

Councilmember D'Aversa

- The reason they want to privatize is because it is a safety hazard.
- They have not been able to as a city to make these citizens safe.
- This was a planned unit development that was not intended for pass through traffic, therefore, those homes were built in such a manner that it is a very dangerous road for this pass through traffic.
- Asked if there were any accommodation that the Public Works Department would be recommending that would allow for this type of issue.
- It seems the safety hazard is not being addressed.

Public Works Director Drake

- Absolutely, there are two things he recommends.
- One being the Transportation Planning Process and the consultant can take a look at that safety issue.
- The other is doing a safety analysis out there by having public safety staff go out there and take a look and see what other things can be done.
- They have had discussions with Crooked Creek for alternatives to gating the entire subdivision and cutting off Creek Club Drive.
- There are other suggestions that they have had that would still need to go to a larger audience than just the subdivision.
- One thing that would help is if they put it through the Comprehensive Transportation Planning Process and if we did close that road, they can then stage the closing of that road with other improvements that will help with the diversion of the traffic that goes through there.
- It would allow us to look at the timing of fixing adjacent intersections just prior to the closing of this connection which right now is being used by a lot of people.

Councilmember Zahner Bailey

- There were prior discussions about the state requirements and we have to be concerned about state law.
- Asked City Attorney Jarrard to remind them in regards to those state thresholds.

City Attorney Jarrard

- At the end of the day, this is controlled by state law as well as a privatization policy.
- The two need to work in tandem together.
- The state law provides that the City can abandon the road for it to become private, which is what is being discussed now.
- Right now it belongs to the city, but they may do the abandonment upon a finding by Council that the roadway has ceased to be used by the public.
- That is a finding you have to make is that this roadway has ceased to be used by the public to the extent that no substantial public purpose is served by it.
- Your findings can only be overcome upon a demonstration that you had grossly abused your discretion.
- There is one case that has found and upheld a government's abandonment decision "even when the roadway was still used by the public to some extent."

- He does not know exactly what that means, but he would suggest it does not mean a lot of activity but in that situation the court found the road to be abandoned was being used for illegal purposes and posed a safety hazard.
- That is the only language that he has found that lessens the requirement of a finding of “ceased to be used by the public.”
- One infirmity that may exist with the current policy is at a minimum it needs to reach out to state law.
- We cannot draft an Ordinance that thwarts the code.
- He would surmise the reason we keep coming back to the 100% threshold is because he suspects it just made everyone feel comfortable, that is the easiest way to comply with state law is to have 100% requirement.
- Just because 100% of the people agree does not mean that you do not still have to make the same decision, you still do.
- You have to determine that it serves no substantial purpose and is ceased to be used but if 100% of the property owners that live adjacent to that road and want the same result that you are grappling with then your decision becomes a lot easier.
- He suspects they will not be terribly concerned about litigation because 100% of the people affected by your decision want what you are deciding so that is probably where the 100% threshold comes from.

Mayor Lockwood

- Asked if he could clarify his position and thoughts because there are some gated neighborhoods that could be considered cut through and how this would differ from that.
- He wonders what the difference is and how they became gated.

City Attorney Jarrard

- What he is used to seeing is that the subdivision starts private and was private from the beginning.
- As part of the abandoned process, you have to provide notice to all of the affected property owners.
- Going back to Public Works Director Drake’s issue of how you define affected, he thinks you are talking about people that own property adjacent to the road that is being abandoned and you have to provide notice to those people.
- Anyone who wants to object it under the state law gets to come to a public hearing and say “Do not abandon it, I still use it.”

Councilmember D’Aversa

- Asked City Attorney Jarrard is he would take that a step further and suggest they would need 100% approval adjacent properties outside of Crooked Creek or would it be those streets that run adjacent to Creek Club Drive.

City Attorney Jarrard

- To the extent that you are going to contemplate abandoning the entirety of that subdivision roads, you would want the sign off of the people who live adjacent to the roadway, which would be everyone within the neighborhood.
- He does not think it is practical or contemplated that you would embrace the entirety of some radius around the subdivision.

Councilmember D’Aversa

- Asked if he had ever seen in other jurisdictions where the intent in the beginning was not to be a cut through, but was to be a planned unit development by definition and therefore that gave some flexibility in state law.
- Asked if there would be a flexibility based on the safety hazards that are so poignant through Crooked Creek.

City Attorney Jarrard

- He has never seen where the intent in the formation of a subdivision played a role in helping address whether the road served any substantial public purpose
- With respect to the traffic or safety hazard, yes, that one case suggests that if that is a finding that can be made, it can assist you when the road continues to serve the public “to some extent.”
- That is terribly vague, what that means but that is the controlling language and that would be the only way in this situation where you might be able to have some play in what the governing law provides.
- Complying with the state law in this situation will be very difficult.

Councilmember Zahner Bailey

- She hopes the audience understands that they are bound by state law.
- If they are going to ask the transportation planning process help evaluate this request, we would make sure those consultants and the stakeholder group in the process of being appointed would help to identify what the technical findings would need to be so we would have data so whatever decision we came to we could support it in a court of law if we needed to.

Councilmember Lusk

- Asked City Attorney Jarrard, in reference to the comment relative to crime, the Public Safety report presented at the last meeting addressed crime in different neighborhoods.

Public Safety Director Lagerbloom

- That report was strictly limited to those cases of entering auto, so it is not a comprehensive crime report.

Public Works Director Drake

- He is looking for direction from Council of whether to leave the existing policy alone or if we start re-working it to include 1,2 and 3.

Councilmember D’Aversa

- If they are going to go through the transportation planning process, then she would like to see this addressed by them.
- She would like a formal review.
- She has a lot of questions about how he came to the scale for the recommended percentages.
- She would like them to address the safety issue and the crime issue.

Mayor Lockwood

- He does not know if they are prepared to give direction based on these facts.
- He would like to get more information from both sides.

Mike Stevens

- In the staff’s recommendations, two of those effectively kill this for us.
- One is connecting two collector roads, Francis is classified as a collector and so is Highway 9.
- The second is the 101 lots plus, we are 600 times larger than that, so it does not really apply to a neighborhood like ours.
- We are the largest neighborhood in Milton.
- Regarding the legal ramifications of privatization, our attorney disagrees 100% with what the City Attorney is saying.
- Our attorney says that absolutely a road can be abandoned.
- He appreciates the staff’s efforts in going to other community to see how they manage traffic, but Georgia has a terrible problem and he does not think any state comes to Georgia to learn how to manage traffic so he would not use other communities to find out how to manage traffic in Milton.

- Second, our sewer policy is very unique.
- Not too many communities use sewer to manage growth or zoning.
- We do things unique in Milton and Crooked Creek is a very unique situation so we need a unique solution.
- We need Council's support for that.
- We know the staff has been against this since the beginning.
- They have made several recommendations.
- The safety issue is why we are here.
- Cannot use our neighborhood streets safely.
- This has to be addressed quickly
- The traffic planning could take 1, 2, or 3 years and we cannot wait that long.

Councilmember Lusk

- He would like for the transportation committee to have minutes from this meeting and the information gathered on the Crooked Creek situation.
- He would like the transportation committee to address this as a primary issue.

Mayor Lockwood

- Some comments were made about Crooked Creek's legal counsel versus the City of Milton's and staff.
- Everyone has a different opinion and they would probably all be right in their own since.
- The City is in a difficult position on this.
- He has been at Crooked Creek and he knows there is a problem and he supports the gating of Crooked Creek, but they have to look at the laws and work through a lot of things.
- We need more information; it is not just a matter of making a decision.
- We have to have the law behind us so it makes take some more fact finding to make a decision.

Councilmember D'Aversa

- Asked if there was an interim solution while they are trying to determine the severity of this safety hazard.
- We should be doing something to protect these citizens, if we are not able to enable them to protect themselves.
- Right now we could not use it as a trail path because you cannot walk up and down Creek Club Drive.

Public Safety Director Lagerbloom

- The best luck they have had on Creek Club Drive is to address the stop signs as opposed to the speeding.
- There is one place that a police officer can safely sit and get 500 feet of visibility distance within that stretch.
- They have had officers out there and they can continue to be out there when they are not on other calls.
- They could use some type of speed message board.
- The one they borrowed from the City of Alpharetta would only give a message if you were one of the ones that needed to slow down.
- Would like to work with the City Manager to see if we could find a way to get one.

Councilmember D'Aversa

- She understands they cannot enforce some of the issues within Creek Club Drive.
- She learned about all the state laws they are bound by.
- She is thinking more in terms of deterrence.
- Asked if there was something else they could do at both entrances to be a deterrent to people.

Mayor Lockwood

- We could add more presence there with having an officer driving back and forth through there.

Public Safety Director Lagerbloom

- Presence is a great deterrent to crime and one we cannot quantify.
- We do have a large city and they can provide presence.
- There are other people in town that require presence so we run thin when it come to putting officers everywhere, but he will continue to remind the officers that is a good place to be.

Councilmember Thurman

- She knows that attorneys often have differences of opinions, so if the HOA has a different legal opinion, she thinks they need as many legal opinions as they can possibly get.
- She has seen temporary speed humps and asked if that might be something to look at.

Councilmember Zahner Bailey

- They have to grapple with an overall policy that impacts all of Milton.
- A suggestion that came up at another meeting in regards to speeding was a Milton pacer car.
- It has to do with the community being involved and helping to be that deterrent.
- She wonders if there are some other community programs that Council could help to support.
- She asked that in the list of short term possible solutions while they are grappling with the larger issue, if some of those things could be considered.

Public Works Director Drake

- Maybe he and the Public Safety Director along some of the members of the Crooked Creek HOA can get together and conduct a formal safety review of Creek Club Drive.
- They can look at the speed issue and the safety issue and see if there is some short term solution.

Councilmember Zahner Bailey

- Anything they can do in the short term would be helpful.

City Manager Smedley

- In Pennsylvania the Municipal Police Department is not allowed to use radar so they use speed strips that are placed in the street.
- Perhaps that is something they can look into.
- It is not radar so you do not need the distance requirement.

Mayor Lockwood

- Crooked Creek is a big part of Milton and this is a serious concern and he and Council understands it.
- He does support it but they have to have information to back up their decision.
- He thanked everyone for coming out.

City Clerk Marchiafava

- Item two was removed and placed on the February 2, 2009 agenda.
- She read agenda item #3.

Council Consideration of Fulton County Response to Proposed IGA and Sewer Map.

City Attorney Ken Jarrard

- Last year the City Council approved an IGA and a proposed sewer map with respect to the ability for Fulton County to provide sewer within the City of Milton.

- The letter received from Fulton County deals with two points.
- The first point is the IGA itself and they requested that language in the original version of the agreement that basically recognized the existence of Fulton sewer lines in Milton, even though they are not part of what would be the Fulton Sewer Service area be recognized.
- The tentacles that go out into Milton that would not be part of their sewer service area, but which otherwise are already in the ground, be recognized, that is one of their concerns.
- We discussed that today in the meeting with Larry Ramsey.
- He does not consider that to be a terribly significant concern because those lines were run before Milton came into existence, therefore, he finds the need to recognize those to be marginal.
- The second area of the letter is recognition of the fact that about seven land lots and parcels within those land lots that was in the original Fulton County proposed map were omitted from the City's proposed map.
- Effectively Fulton County's argument is, to quote, "it would seem silly to remove these parcels from consideration given the fact that Fulton County is able to provide sewer service to them."
- That is one argument and the second is that to not recognize those additional parcels is inconsistent with the heretofore Fulton County Sewer Policy.
- He, City Manager Smedley and Finance Manager Stacey Inglis met with Larry Ramsey on a host of issues of which this was one.
- Basically, what they said to Fulton County was, could you not go ahead and approve this IGA and perhaps we can address these other issues at some other time.
- The response we received was that Fulton is concerned that it has made commitments to some of the individuals within these parcels that we omitted and Fulton would hate to take a position by agreeing to our IGA that is inconsistent with past commitments.
- They would hate to do one thing with one hand and another thing with the other hand.
- He understands that but on the other hand the response they gave back to Fulton County was, there was another sovereign jurisdiction was created, so to the extent that there have been representations made, he thinks it is reasonable to go back to those individuals and say, Milton came into existence and they have their own ideas about things and that may limit our ability on these points.
- The request we made to them again was to consider adopting the IGA that we proposed and if we need to add a sentence of two recognizing the existing lines in the ground that may be outside, that is ok, we would not be extending the sewer service area but we would be recognizing the fact they may have some infrastructure in the ground and it is lawful to remain where it is.
- Mr. Ramsey indicated that he would consider that and take it to the Board of Commissioners and Commissioner Riley.

Mayor Lockwood

- The reason we carved out those seven land lots was to make sure that we were not adding or extending sewer to what was existing, promised or in service.
- Asked what happens if they do not come to an agreement with Fulton County.

City Attorney Jarrard

- If we do nothing then the IGA that is in existence now, which is the 2006 IGA that incorporates the Brown and Caldwell map continues to be the law of the land right now.
- That is why they entreated to Mr. Ramsey that it might make good since to do this because it is a lot better of a map than they have right now.

Councilmember Tart

- With regard to the sewer service area map that the majority of this body passed, asked if City Attorney Jarrard had any indications from Fulton County on whether or not they would service or not service sewer to all of the land lots that were in that map that we proposed to them.

- He takes it they would still provide sewer to all of those land lots as we gave them because they need money.

City Attorney Jarrard

- He has nothing to suggest that they would not provide sewer service to the areas that were identified on our map.
- The question is if they can lawfully do it and his position is that they cannot.
- There must not be any request being made for development in those areas.
- They have indicated they will provide sewer when the need arises.

Councilmember Tart

- There is a case coming up next week that rises to that level.
- The old IGA does not necessarily contain all of the land lots that are in the no inter basin transfer ordinance.

City Attorney Jarrard

- That may raise an issue and it will be a question of sewer availability for that zoning case.

Community Development Director Wakefield

- It does go outside of the map but it is in the inter basin transfer area and they do have a sewer permit.
- The majority of the properties that were up for discussion had sewer permits.

Councilmember Thurman

- It is her understanding the Fulton County's concern is the liability they could incur if they were sewed by one of the property owners that felt like they had been given access to sewer by Fulton County and now that it was being taken away.
- Asked if that was discussed during the conversation with Mr. Ramsey.

City Attorney Jarrard

- It was not discussed by he may come back and articulate that better.
- It is not set forth in this letter and he would have expected to see more of a vesting type of argument made.
- He may come back and present that.

Councilmember Thurman

- She thinks that some of the land lots there is a discrepancy as to where the inter basin lines happen to be.
- She thinks that is what the issue is on some of them.

Councilmember Zahner Bailey

- It seems that the City of Milton is in a position of leverage and not necessarily Fulton County.
- The issue is that they did identify historically which land lots were within the No Inter Basin Transfer Policy, which land lots were part of the Crabapple Master Plan.
- She thinks they were all quite clear that there were a lot of land lots that were never intended by Fulton County nor The City of Milton to be sewered.
- She applauds the City Attorney and the City Manager for the conversation with Mr. Ramsey.
- It seems they would be in an ideal position to accept what the majority of this body voted on.
- That revised map did represent some sewer extension but rather than debate that, she thinks that to go beyond what was already approved would most certainly represent sewer extension beyond any of their policies that have been every adopted by Fulton County or this body.

- When they talk about the phrase that they may have made representations to others, she has not seen any legal or documented evidence that they have made any representations to other land owners that would be part of the seven land lots.
- She hopes we would question what those representations are and that we would ask for documentation of that.
- She would hope that any zonings coming up it would not put onus on us to change what we have done but instead put onus on Fulton County to go ahead and adopt the IGA put before them.

Mayor Lockwood

- To those comments for the record when it was talked about extending sewer there are members of this body that firmly believe that sewer was not extended.

Councilmember Thurman

- Would like clarification from Ms. Wakefield, it was her understanding from what they approved did not represent and parcels that were not included in what Fulton County felt like was the area in which they had already deemed to be the area where sewer would be.

Community Development Director Wakefield

- The red areas that staff recommended not be included were areas that may have had some development near or adjacent to them but they were never areas where she was aware of any plan development.

Mayor Lockwood

- He does not want this to get into a discussion of sewer extension.
- He wants to limit the conversation on this.

Councilmember Zahner Bailey

- She does not want to belabor it either, but what they are being asked now to do is add additional land lots that would absolutely provide sewer extension to additional land lots.
- She asked City Attorney Jarrard if the seven land lots being requested by Fulton County to be added to the IGA would represent sewer extension.

Mayor Lockwood

- With all due respect on this, he thinks the City Attorney said he was weighing on information and went in with the stance that this is what the City of Milton agreed to and they are waiting on response so at this point we are not asking this body to make a decision to add those.

Councilmember Zahner Bailey

- She was not asking this body to weigh in, she was asking the City Attorney based on his evaluation of the additional land lots that were being requested in the letter that was provided to us by Mr. Ramsey, if those seven land lots represent sewer extension.

City Attorney Jarrard

- They are the land lots that on the map we looked at in August and September would have been red.
- Under the working definition that they were using then, he thinks they would represent sewer extension.
- The meeting with Mr. Ramsey was very respectful and productive.
- This was one of the issues that they covered.
- He is extremely optimistic they will make some good progress on this issue very shortly.

City Clerk Marchiafava read agenda item #4.

Building Procedure Policy

Interim City Manager Smedley

- This is the final draft of the proposal policy for use of City meeting facilities.
- Asked if Council had any comments or questions to please contact him.

Councilmember Zahner Bailey

- They had talked about whether the sanctioned committees were going to meet here and we had decided we would not give out keys.

Interim City Manager Smedley

- That is correct and we are trying to move all of the meetings to Fire Station #43.
- If there is a conflict we can still use this building and that building at the same time.

Councilmember Zahner Bailey

- Asked if this would apply to some of the upcoming committees because some of the committees are quite large.

Interim City Manager Smedley

- The ones that would exceed the capability of Fire Station #43 could be held here.
- It would be up to the City Manager's discretion.

City Clerk Marchiafava read agenda item #5

Inclement Weather Policy

Interim City Manager Smedley

- He asked Council to review the policy and get back with him on any changes or additions they would like to have incorporated into this policy to please let him know.
- The employees have been divided by departments to essential and non essential employees.
- Non essential employees would not be required to report but essential employees would.

Councilmember Lusk

- Asked if this was pretty much consistent with other governmental and school policies.

Interim City Manager Smedley

- Right, it is up to the Mayor to declare the emergency, then we would go down the call list and we would get the word out to the unessential and essential employees.

City Clerk Marchiafava read agenda item #6.

Briefing Property Insurance (contents).

Interim City Manager Smedley

- We found out that we were not insured for contents of the City.
- He is happy to report that we now have the contents valued at \$194,000 and the computer equipment valued at \$19,400 for an additional premium of \$119.00.

Councilmember Tart

- Have we reviewed any other areas in which we need to have insurance we do not currently have.
- He is surprised to know we have not had content insurance for the past two years.

Interim City Manager Smedley

- It is in the process of being reviewed.
- He has requested some initial information on some things and as soon as he has that he will report.

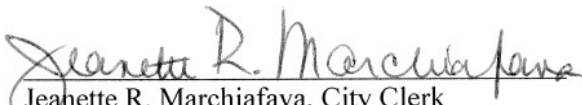
That concluded the work session.


EXECUTIVE SESSION

Motion and Vote: Councilmember Tart moved to adjourn to Executive Session at 7:36 p.m. to address litigation and personnel. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

After no further business, the Work Session adjourned at 8:21 p.m.

Date Approved: February 2, 2009


Jeanette R. Marchiafava, City Clerk



Joe Lockwood, Mayor