

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 Meeting of the Mayor and Council of the City of Milton was held on May 18, 2009 at 6:00 PM, Mayor Joe Lockwood presiding.

INVOCATION

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

CALL TO ORDER

Mayor Lockwood called the meeting to order.

ROLL CALL

City Clerk Marchiafava called the roll and made general announcements.

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

PLEDGE OF ALLEGIANCE

Mayor Lockwood led the Pledge of Allegiance.

APPROVAL OF MEETING AGENDA

Staff recommended the following changes to the Meeting Agenda:

1. Under New Business, add a Resolution Amending Resolution No. 07-06-45, a Resolution Appointing Mark Reed to the City of Milton Advisory Committee for the City of Milton comprehensive Plan.
2. Add an Executive Session to discuss potential litigation.

Councilmember Lusk

- Would like to add under Reports and Presentations, a Proclamation for Birmingham Park Clean Up.

Motion and Vote: Councilmember Lusk moved to approve the Meeting Agenda, as modified. Councilmember Thurman seconded the motion. Councilmember Thurman seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

PUBLIC COMMENT

Mayor Lockwood

- Public comment is a time for citizens to share information with the Mayor and City Council.
- To provide input on any matter that is not scheduled for its own public hearing during this meeting.
- There is no discussion on items on the Consent Agenda and First Presentation.
- Each citizen who wishes to participate in Public Comment must complete a public comment card and submit it to the City Clerk.
- This is not a time to engage the Mayor and Council in conversation.
- When your name is called please come forward and state your name and address into the microphone.
- Everyone has five minutes for remarks.

Bill Fantozzi, 12830 N. Winesap Run, Roswell, Georgia

- He is a Milton City taxpayer and has owned property here for twenty five years.
- He was disappointed to see Councilmember Zahner Bailey voting on the zoning issues pertaining to landscaping that came before Council about three weeks ago.
- Because she and her family are in the landscaping business, he sees that as a conflict of interest.

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- He is sure that Councilmember Bailey has checked with the City Attorney, but the legal issue is not the primary issue.
 - The issue is public image.
 - He has had people call him and comment on why she is voting on those issues.
 - It is not fair to the petitioner.
 - It is not fair to the City Council.
 - It is not fair for the staff.
 - Staff examines all of the details and makes recommendations and if it is turned down, they have to ask themselves why.
 - It is obvious for someone to look around and ask if Councilmember Bailey is being competitive.
 - It is a competitive business and it does not matter if she owns the business or not, she profits by it and he sees that as a conflict of interest.
 - As a taxpayer, he does not want his City Council viewed that way.
 - It is a public image issue that Council should look into.
 - He thinks the right thing to do would be to recuse herself.

That completed public comment.

CONSENT AGENDA

City Clerk Marchiafava read the Consent Agenda items.

(Agenda item No. 09-861)

Approval of the may 4, 2009 regular meeting Minutes.

(Agenda item No. 09-862)

Approval of Financial Statements for the period ending April 2009.

(Agenda Item No. 09-863)

Approval of the land development plats:

- | | | |
|--------------------------|------------------|--|
| a. Crooked Creek | Combination Plat | Combine two parcels prior to development |
| b. Six Hills III, Lot 56 | Milton Plat | Moved property line to save trees |
| c. The Shops at Windward | Final Plat | Create three out-parcels per Petition
No. 2003Z-0081 NFC & 2003 VC-0111 NFC |

Motion and Vote: Councilmember Thurman moved to approve the Consent Agenda. Councilmember D'Aversa seconded the motion. The motion passed unanimously 7-0.

REPORTS AND PRESENTATIONS

City Clerk Marchiafava read the Presentation Item.

Added by motion and vote

A Proclamation for Birmingham Park Clean Up.

Councilmember Thurman and Councilmember Lusk read and presented the Proclamation to Gordon Hunter and Jim Brown and the members of the Church of Jesus Christ of Latter Day Saints, as well as all of the hundreds of others who participated, including food vendors, for their outstanding work in organizing and participation in the Birmingham Park Clean up in the City of Milton, Georgia.

Mayor Lockwood

- Thanked everyone for their hard work in cleaning up the park.

FIRST PRESENTATION

City Clerk Marchiafava read the First Presentation item.

Approval of an Ordinance of the City Council to Authorize Fulton County to Conduct Election.

Motion and Vote: Councilmember D'Aversa moved to approve the First Presentation item, Approval of an Ordinance of the City Council to Authorize Fulton County to Conduct Election. Councilmember Thurman seconded the motion. The motion passed unanimously 7-0.

ZONING AGENDA

City Clerk Marchiafava read the Zoning Rules.

(All zoning agenda items typed verbatim)

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

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

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

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

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

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

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

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

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

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

When an opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority of the respective local government at least five days prior to the Planning Commission meeting. A violation of the relevant state statute constitutes a misdemeanor. Therefore, if you have contributed \$250.00 or more to a Councilmember and you have not filed a disclosure prior to the Planning Commission meeting, the City Attorney strongly suggests that you have someone else speak for your point of view.

City Clerk Marchiafava read the Zoning Agenda item.

U09-01 / VC09-01, 13120 Arnold Mill Road, by Frank Schaffer, The Landscape Group, Inc. - To obtain a use permit for a landscaping business on 1.74 acres at a density of 3,908.04 square feet per acre (Article 19.4.27). Applicant is also requesting 3-part concurrent variance:

- 1) To delete the 50' buffer and 10' improvement setback along the west property line from the right-of-way for a distance of 140' (12H.3.1 Section C.1).**
- 2) To delete the 50' buffer and 10' improvement setback along the east property line from the right-of-way for a distance of 140' (12H.3.1 Section C.1).**
- 3) To allow a sign located less than 10' from the right-of-way (Article 33 Section 21.C).**

(First Presentation on March 2, 2009.) (Deferred on April 27, 2009.)

Community Development Director Alice Wakefield

As was stated this is a request for a use permit for a landscape business with at related 3-part concurrent variance. This matter was before the Mayor and City Council on April 27th at which time a deferral was granted to allow the applicant and the staff to resolve issues relating to the location of the well and the above ground and tank in relation to the septic tank and the line. Although it was staff's intention to have these issues resolved or at least have an answer for this body by this meeting we still have not obtained all of the information. We are still waiting for additional information from the Health Department and some additional information from the septic contractor that was hired by the applicant so staff's recommendation is for deferral and Ms. Robyn MacDonald will add some additional information.

Senior Planner Robyn MacDonald

Good evening, I will not bore you with the entire review of it, but to add onto what Alice said, the applicant has talked to a contractor for the septic and we believe that the tank that exists is going to be too small. But we have not heard from the Health Department as to what would be required as far as the size of the septic tank. He has also talked to a well contractor and their intent is to relocate the well tank storage to the warehouse structure. Mr. Schaffer can answer any other questions about that. What we are looking for from the Health Department right now is to get an exact idea of how large the new septic system should be because that can affect how the applicant can revise the site plan per your instruction at the last meeting so therefore, staff does also recommend and support the applicants request to defer this until the June 15th meeting.

Mayor Lockwood

Before we go into public comment, are there any questions of staff from the Council? Since there is none, I would like to hear from those speaking in support of the application.

Frank Schaffer Sr., 1041 Hidden Hollow Drive, Marietta, Georgia

I represent the landscape group, I am the treasurer quote investor and we have made every effort to satisfy what the City of Milton requires of us. We have tried to get in touch with Monica Robinson and she has not returned our calls. We have called as late last night and she has not returned our calls. That is twice yesterday and still no calls back so I am looking for your help of this if you can. We do not know what to do. As far as the septic tank,

our position really is that it has been grandfathered in. It was probably put in forty or fifty years ago and is important for that little house. The house is only 800 square foot. As far as the distance of the well, I talked to the plumber who maintains the well for us and he says that well is located where the water is successful for use on our property. I would like to have Richard Brown talk. He knows quite a bit about the history at the location 12130 Arnold Mill Road.

Richard Brown

Hi my name is Richard Brown, my address is 4837 Atlanta Highway. I am a friend of Franks and knew the previous owner, David Dent that had it before and Consuelo, cannot think of her last name but they were the parties that had it previously and built the building down below and did the improvements on the property and so forth. I was unable to make the last meeting. I was running late, anyway, long story short, Frank filled me in on some of the information and that was from the last meeting but some other people that I have talked to on various other properties, I was not sure, especially taking the house being built sometime in the forties, late forties is the time frame it was built, why it was an issue with the septic tank that was pre-existing back that time as well as the well and in regards to the size of septic tank being around 500 gallons or so, the plumber that Frank and them use to maintain the well and so forth, he did not put the septic tank in but he guessed that it was around 500 gallons or so but beings that it was so old, it is anybody's guess. He was not there when they drained it quite a while back, that was probably the only way they had to check on how big it is so they were just guessing on what it might be. With the well scenario and putting the pressure tank and some of the other stuff inside the shed or shop or whatever you want to call it might be possible but the well itself even where it come out of the ground, it is still going to stick out of the ground at least 30 inches or a good two feet out of there so by changing it that main piece is still going to be there. They cannot drive around that and I am not sure that by doing that if they can eliminate the well house. I mentioned to the plumber, isn't it still possible the well could still freeze, he did not really think about that and he said, well it is possible but he could not say for sure but moving the tanks and so forth, I am not sure is going to satisfy thing, in other words give them some space and so forth, especially with the trucks and trailers it would be difficult to turn in that location, to make that full turn. That is why they were asking for the variance on the one side there was to have that additional swing to come around it and again with the thought of the house and the septic tank as it stands now, whatever the size may be on that, it is like I was telling Frank before, it used to be a family home with a washer and dryer and two bedrooms and so forth, where now it is an office and predominately there is only one person there that just uses the restroom. They do not have a kitchen anymore with a sink and a laundry room and all of that. That does not exist so the use as it was intended from the past with two or three people living there does not exist. It is very minimal use. That is all I have to say. Are there any questions?

Mayor Lockwood

Are there any questions? Is there any more public comment?

City Clerk Marchiafava

No sir, and there is none in opposition.

Mayor Lockwood

Ok. Are there any questions for the applicant or staff from Council?

Councilmember Lusk

I have a question to Robyn. Since I was the one who generated that issue last week, I hate to see us head down the wrong path here and I did not intend to direct it the wrong way. My point was and question was, the distance between the well and the septic field itself and the Public Health Department obviously dictates the separation between the well and the septic field and where I was headed with that is if they were not far enough apart according to the Health Department, I guess that would be a decision left up to the Health Department if that were true, maybe the well could be relocated and I did not want to run Mr. Schaffer into a lot of additional cost if he does not have to but from a public health standpoint there may be an issue there and if the well needed to be

relocated, possibly get rid of that well house entirely and then obviate that need for providing for that buffer reduction along the first 150 feet.

Senior Planner MacDonald

I did have contact with Monica Robinson at the Health Department in two ways, she did send comments but they were boiler plate comments that she would send for any other use permit that involved as septic tank and a well. I did talk to her personally and I was waiting to get it in writing. She made a statement to me over the phone and I did not want to present it to you until I had it in writing but she gave me the idea that it did not really matter, the separation, but she was more concerned with changing it from a residential use to a commercial use. The size and capacity of the septic system and that is why it has turned to the septic system because at that point in time when I talked to her on the phone, I did not know what size the septic was, she said they would not have to move the well but they were more concerned with the safety of the septic system and she had made a statement that even a 750 gallon tank would not be approved for residential so I am waiting to hear what it is they will require from them to replace the existing tank and that when you have a rezoning from a residential to a commercial use it kicks in all sorts of different rules with the Health Department so even though there may be less use of plumbing it does not matter to them. They take the maximum occupancy of the building which is eight, we calculated it through Melissa and I gave that information to the Health Department and that is what I am waiting for is how big of a septic system will eight people require for that site. I guess to get back to your original question, she was not concerned about the distance of the well from the water, she said they would require some testing of the water but it sounded like to me that were not going to require them to move the well but she concentrated on the health of the septic system.

Councilmember Lusk

That surprises me.

Mayor Lockwood

Right, any more questions? I need to close the public hearing since there is no more public comment on this so the public hearing is now closed.

Public Hearing Closed

Councilmember Tart

I did have one question because I am confused as to how this changes the application other than the septic system that they may or may not have and may need to amend. In terms of the variances that they are asking for, it looks as if we will be considering the same variances because there is not going to be a change.

Senior Planner MacDonald

Basically, once we know what size septic we will have a better picture about how they can work around the site plan so that was the reasoning. Maybe it is for the better, maybe it is for the worse, I cannot say until we get more information from the Health Department to know what they are going to require.

Councilmember Zahner Bailey

Robyn, also if I am clear, you are going to be getting from Monica Robinson information about the distance between the well and the septic.

Senior Planner MacDonald

Right, I was waiting for confirmation but what she sent was boiler plate of whatever would apply to a situation like that and immediately I e-mailed her and left a voice messages, please give me distance, please give me information so I have not heard from her since last week.

Councilmember Zahner Bailey

So the expectation between now and June 15th that the applicant has requested is we would expect to have an answer.

Senior Planner MacDonald

Right and they would have the opportunity to revise their site plan and adequate enough time to be able to get back to you all.

Motion: Councilmember Hewitt moved to defer until June 15, 2009 agenda item 09-813, **U09-01 / VC09-01**, 13120 Arnold Mill Road, by Frank Schaffer, The Landscape Group, Inc. - To obtain a use permit for a landscaping business on 1.74 acres at a density of 3,908.04 square feet per acre (Article 19.4.27). Applicant is also requesting 3-part concurrent variance:

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- 3) To allow a sign located less than 10' from the right-of-way (Article 33 Section 21.C).

Second and Vote: Councilmember Thurman seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

NEW BUSINESS

City Clerk Marchiafava read the agenda item.

Added by motion and vote

A Resolution Amending Resolution No. 07-06-45, a Resolution appointing Mark Reed to the City of Milton Advisory Committee for the City of Milton Comprehensive Plan.

RESOLUTION NO. 09-05-94

Councilmember Thurman

- Her position for CPAC has recently come available.
- The person who was on the committee is no longer willing to do it.
- Mark Reed currently serves as Chairman of our Parks and Recreation Committee.
- Normally, she would not put anyone in at this late date in the plan process but she feels that Parks and Rec is an integral part of the plan. It would be nice to have him serve on the CPAC committee as liaison between Parks and Rec Board and CPAC.

Motion and Vote: Councilmember Zahner Bailey moved to approve a Resolution Amending Resolution No. 07-06-45, a Resolution Appointing Mark Reed to the City of Milton Advisory Committee for the City of Milton Comprehensive Plan update process. Councilmember D'Aversa seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

MAYOR AND COUNCIL REPORTS

Councilmember Thurman

- She does not think that she and Councilmember Lusk gave a report on their meeting with John Wieland.
- There is not a lot to report on.
- The City Manager and the Community Development Director were both there also.
- She thinks it was a good meeting.
- There was nothing definite that came out of it other than he is considering a modification to his current plan to get rid of some the town homes and do some more cluster type homes but not change the overall density.

- He does understand that would have to come back before Council.
- We asked him to get with J.T. Adams to view J.T.'s plan since some of the property that is included on J.T.'s plan is actually owned by John Wieland. We thought it would be important for them to get together and talk.

Councilmember Lusk

- Thinks he was impressed with what he had seen that Mr. Adams had presented and understood working together to bring the whole community together.
- It was positive feedback from Mr. Wieland.

Councilmember Thurman

- The premise of the meeting was to talk with him about making Crabapple a viable area.
- He seemed willing to help us with whatever we wanted to do.

Councilmember Lusk

- He would like to remind everyone about Memorial Day. We will have our second annual Memorial Day celebration.
- At 10:00 am sharp, we will have a fly over from the Tiger Flight Foundation.
- Our keynote speaker, Lieutenant General Roy Beauchamp, is geared up and ready to go.
- There are a lot of other activities going on and he would encourage everyone to come out and join them.
- As of this date, they have identified 86 fallen veterans who are members of families who are residents in the City of Milton.
- We will have all of those markers along Deerfield Parkway.
- He thanked Rick Mohrig and Dennis Potts for helping in that initiative.

Mayor Lockwood

- Thanked Councilmember Lusk, Rick Mohrig, Dennis Potts, and everyone who helped with this event.
- It is interesting to see how it has grown from last year.
- We are all honored to be a part of it.

Councilmember Tart

- On May 13th we met and discussed uniformity policing initiative.
- Staff will provide a report.
- Basically, it would encourage formation of additional neighborhood watch programs, as well as existing programs.
- It includes several other initiatives as well.
- He will provide the City Manager Lagerbloom a final copy of the minutes for that meeting and the City Manager will send them to Council.

STAFF REPORTS

City Manager Lagerbloom

- We have tested the Granicus system tonight.
- Soon you will be live streaming over the web during these meetings.
- We will be bringing forward a midyear budget.
- There have been many questions as to where we are on the budget specifically in light of having headlines that say a 1.9 million dollar short fall in Milton.
- The budget is being looked over by the department heads before it comes before Council.
- The budget is at a level at this point to be balanced.
- He does not think the citizens will see any decline in service.
- There will be some areas of slight modification needed.

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- They were very intent into the document and found some ways to reduce cost in this environment.
 - He had hoped to bring something else forward for approval at this meeting, but could not get it on the agenda in time and that is the award of a contract on our City Hall space and needs analysis that we have discussed.
 - We did go through a competitive bid process and interviewed the top five.
 - Our staff recommendation will be to award the contract to Lyman, Davidson and Dooley for that scope of service.

Interim Public Works Director Carter Lucas

- We sent out an invitation to a luncheon on May 29th in honor of Public Works Week.
- It is recognition for public works employees throughout the nation.

Councilmember Zahner Bailey

- Asked the City Manager as a function of the community if they could get an update on where they are on the Wieland Development with regards to the EPA issues and the stream buffers, as well as the remediation of those issues.
- She thinks people are waiting to hear about those items as well as items that came out of the BZA that involves the EPA fines.

Councilmember Thurman

- They did mention they were working with those two communities and hoped to have something resolved in the next couple of weeks.

EXECUTIVE SESSION

Added by motion and vote

Executive Session to discuss potential litigation.

Motion and Vote: Councilmember Tart moved to adjourn into Executive Session at 6:53 p.m. Councilmember D'Aversa seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

RECONVENE

Motion and Vote: Councilmember Zahner Bailey moved to reconvene the Regular Meeting at 7:28 p.m. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

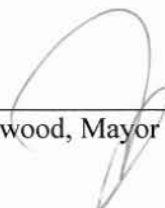
ADJOURNMENT

After no further business, the meeting adjourned at 7:31 pm.

Motion and Vote: Councilmember Thurman moved to adjourn the Regular Meeting at 7:31 p.m. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

Date Approved: June 1, 2009


Jeanette R. Marchiafava, City Clerk



Joe Lockwood, Mayor