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**The Regular Meeting of the Mayor and Council of the City of Milton was held on June 15, 2009 at 6:00 PM, Mayor Joe Lockwood presiding.**

### **INVOCATION**

**City of Milton Police Chaplin Remeo Brommet 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**

**Motion and Vote:** Councilmember Hewitt moved to approve the Meeting Agenda. Councilmember Tart 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 and to provide input and opinions on any matter that is not scheduled for its own public hearing during today's meeting.
- There is no discussion on items on the consent Agenda or First Presentation from the public or from Council.
- Each citizen who chooses to participate in public comment must complete a comment card and submit it to the City Clerk.
- This is not a time to engage the Mayor or members of the City Council in conversation.
- When your name is called, please come forward and speak into the microphone stating your name and address for the record.
- You will have 5 minutes for remarks.

#### **Bill O'Connor, 450 Arcaro Drive, Milton Georgia**

- He has a problem he does not know how to resolve.
- He has a new home in Milton.
- He has substantial electrical problems in the home.
- Electricians say the problems should have been caught upon inspection.
- He forwarded a letter to Ms Henderson on April 15<sup>th</sup> and copied the Mayor requesting inspection records.
- In May Ms Henderson said she never received the letter.
- He then e-mailed and faxed records and spoke with her but he still has nothing.

- He feels the City has not engaged competent inspection.
- Asked what he needs to do now.

**Mayor Lockwood**

- Thanked Mr. O'Conner and said they would have staff contact him in regards to the matter.

There was no other public comment.

**CONSENT AGENDA**

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

1. Approval of the June 1, 2009 Regular Meeting Minutes.
2. Approval of Financial Statements for the period ending May 2009.
3. Approval of the City Hall Space/Facility needs Analysis agreement with Consultant Lyman, Davidson Dooley, Inc. (\$12,800.00).

**Motion and Vote:** Councilmember Tart moved to approve the Consent Agenda. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**REPORTS AND PRESENTATIONS**

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

**PRESENTATION FROM MILTON PUBLIC SAFETY FUND – GRANT PRESENTATION.**

**Jan Fowler**, Milton Public Safety Fund Committee

- They had some fund raisers the past year.
- Earlier this year they presented a \$4,000 check for a piece of fire equipment.
- Tonight they present a check for \$1,673, for an incident command system.
- They have another check for \$1,821.95 for law enforcement incident command vest.
- The last check is for \$2,519 for police flash lights, holders and some whistles for fire trucks and police cars.
- They had enough that citizens can pick some up also.
- They will have the golf tournament in October rather than August this year so it will be a little cooler.

**Mayor Lockwood**

- Thanked Jan for all she has done as well as the rest of the members.
- This means so much more than just the money they raise.
- It lets the people who put their life on the line every day know that they care and are trying to go the extra mile to help them have the equipment to make their jobs easier.

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

**PROCLAMATION AMATEUR RADIO WEEK.**

**Mayor Lockwood**

- Read the Proclamation and presented it to Mack McCormick and other members of the Fulton Amateur Radio League.

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

**GRANICUS DEMO STREAMING PRESENTATION.**

**Kelly Christy, IT Manager**

- We started the initiative last year to begin web streaming.
- We will put the Council Meetings and some other meetings on the web.
- They still have some things to work on to implement it with the current web site.
- The citizens will be able to log on to the web site and view the meetings live.
- At the end of the meeting once it is cleared with the Clerk's office they will be able to view previously recorded meetings as well.
- We plan to go live on July 6, 2009.

**Councilmember Zahner Bailey**

- Asked if the citizens would be able to view the minutes in this section also.

**IT Manager Christy**

- Yes.

**SECOND PUBLIC HEARING**

**City Clerk Marchiafava** read Agenda Item 09-871.

**Approval of an Ordinance to Adopt Amendments to the Fiscal 2009 Budget for Each fund of the City of Milton, Georgia Amending the Amounts Shown in Each budget as Expenditures, Amending the Several items of Revenue Anticipations, Prohibiting Expenditures to Exceed Appropriations, and prohibiting Expenditures to Exceed Actual funding Available.**

**Finance Manager Stacey Inglis**

- Current economic condition shave had a detrimental effect on several of the revenue sources.
- Collection trends indicate a 6.5% decrease in initial projections.
- The table on page 3 shows the necessary amendments to the revenues.
- When the projections for the FY 2009 budget were compiled, the anticipated collection rate for 2009 property taxes was 93%. However, given the prior year collection rate of 89%, a decrease of approximately \$1 million for Real and Personal Property Taxes (Current Year) is suggested.
- A Decrease of almost (\$524,000) in Current Year Utility Taxes is necessary due to an error in the tax digest.
- Based on the Georgia Department of Revenue, last year's digest for the utility property within Milton inadvertently included property located elsewhere within the County.
- The error was corrected on this year's digest greatly reducing the amount of taxes owed to the City.
- Since the collection rate for last year's property taxes was expected to be higher than 89%, the FY 2009 Prior Year Property Tax was projected at a low rate. A combined increase of \$435,000 is being suggested based on actual in the Real and Person Prior Year Property Tax line items.
- The franchise fees collected from Georgia Power and Sawnee EMC this fiscal year were considerably higher than the two previous years.
- An increase of \$300,000 is being suggested.
- Local Option Sales Taxes are trending almost 13% lower than this time last year.
- A decrease of \$607,000 is recommended.
- Currently, only 82% of Milton's businesses have renewed their business licenses.

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- Collection efforts are underway to encourage the remaining active businesses to renew, however, because of business closings and lower than anticipated license fees, a decrease of \$70,000 is suggested.
  - We were able to offset without cutting jobs and without cutting services for the citizens.
  - We decreased the Mayor and Council budget by \$56,170 due to the Executive Aid position being vacant up to this point.
  - The City Manager budget was reduced to approximately \$105,000 basically due to the Assistant City Manager position being vacant.
  - Under General Administration we have an increase of \$28,989 and a decrease of \$58,740.
  - Increase of \$18,000 in the IT budget.
  - In Municipal Court there is a decrease of \$9,473.
  - The Public Safety was reduced by \$151,556.
  - Three things contributed to that decrease, the elimination of the Public Safety Director position, gas prices decreased from the time the budget was put together, and the security measures they were going to implement have been deemed unnecessary at this time.
  - In the Police we have an increase of \$88,016 to account for the additional workers comp and flexible spending cost with a decrease of \$143,260 due to a vacant position that is being held until next year.
  - The Fire Department has an increase of \$94,882 due to two positions that were left out of the salary benefits cost in the initial budget.
  - Public Works has a decrease of \$545,668.
  - They were able to cut \$20,000 out of Parks and Recreation.
  - Reduced Community Development by \$73,552.
  - The most significant decrease is due to the fact that the funds they were going to put into reserve at the required two months of funding were not needed.
  - They met that requirement last year.
  - They were able to reduce other financing uses by \$558,748.
  - The confiscated assets fund was created to account for the expenditures and revenues from the activities of a narcotics detective but due to budget constraints, it has been decided to put the hiring of the detective on hold.
  - We show the NPDES project to the Capital Projects fund for a \$433,500 increase.
  - We transferred appropriations for Advanced Life Support Equipment from the General Fund to the Capital Projects Fund in the amount of \$50,000.
  - Decrease of \$259,927 due to various projects being eliminated.
  - Overall we have an increase of \$236,373 in the Capital Projects Fund.
  - Those are the main amendments to the budgets we are requesting approval for.

There was no public comment.

Public Hearing closed.

**City Clerk Marchiafava** read Agenda Item 09-881.

**Approval of Alcohol Beverage license Application for N & L Restoration d/b/a/ Cans Taqueria... Tequila Bar located at 12635 Crabapple Road, Suite 320, Milton, Georgia. The applicant is Larry Stepp for consumption of the premises of wine, malt beverage, and distilled spirits.**

**Finance Manager Inglis**

- The applicant has followed all of the requirements.
- Staff recommends approval.

There was no public comment.

Public Hearing closed.

**Motion and Vote:** Councilmember Hewitt moved to approve Agenda Item 09-881, Approval of Alcohol Beverage license Application for N & L Restoration d/b/a/ Cans Taqueria... Tequila Bar located at 12635 Crabapple Road, Suite 320, Milton, Georgia. The applicant is Larry Stepp for consumption of the premises of wine, malt beverage, and distilled spirits. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**City Clerk Marchiafava** read Agenda Item 09-882.

**Approval of Alcohol Beverage License Application for Gray Doster, LLC d/b/a/ 'cue located at 13700 Highway 9, Suite 300, Milton, Georgia. The applicant is Paul J. Doster for consumption on premises – wine/malt beverage.**

**Finance Manager Inglis**

- This applicant has followed all requirements and staff recommends approval.

There was no public comment.

Public Hearing closed.

**Motion and Vote:** Councilmember Lusk moved to approve Agenda Item 09-882, Approval of Alcohol Beverage License Application for Gray Doster, LLC d/b/a/ 'cue located at 13700 Highway 9, Suite 300, Milton, Georgia. The applicant is Paul J. Doster for consumption on premises – wine/malt beverage. Councilmember D'Aversa seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**ZONING AGENDA**

**City Clerk Marchiafava** read the Zoning Agenda Rules.

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.

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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 Agenda Item 09-813.

*Zoning Agenda items typed verbatim*

**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).**

**Community Development Director Alice Wakefield:**

As stated this is a request for a use permit for a landscape business with a three part concurrent variance. This matter was first before this body on April 27<sup>th</sup> at which time a deferral was granted to allow staff the opportunity to get additional information regarding septic and also some information from the Fulton County Health Department. This item was also before this body on May 18<sup>th</sup> at which time staff recommended a deferral because we had not received information from the Fulton County Health Department. Staff also asked the applicant to provide a revised site plan that would be submitted in a timely manner that would be reviewed for this Council Meeting. Staff did not receive the revised site plan until June 9<sup>th</sup> and in addition after reviewing the site plan it is staff's opinion that the site plan needs to be better prepared such that the dimensions were sketched in by hand so there is no way to verify the accuracy, so we have asked the applicant to submit a better site plan. Therefore staff is asking for a deferral until the July meeting.

**Mayor Lockwood:**

Are there any questions from Council to our staff before we go into public comment?

**Councilmember Tart**

What date in July is it?

**Community Development Director Wakefield:**

July 20, 2009.

**Mayor Lockwood**

First we will hear from those speaking in support of the use permit and variances.

**City Clerk Marchiafava:**

Mr. Frank Schaffer

**Frank Schaffer, 1041 Hidden Hollow Drive, Marietta, Georgia**

I represent Landscape Group Incorporated. We were informed by Robyn that we should request a deferral to get the proper survey of our property to make sure that we comply with the needs of the Council. I think Robyn is going to talk about it today and I would like to say we will support anything that Robyn suggests.

**City Clerk Marchiafava:**

That completes public comment.

**Mayor Lockwood:**

We will close the public hearing now. Is there any Council discussion? Do I have a motion and a second?

**Motion:** Councilmember Thurman moved to allow deferral as requested by the applicant and staff to July 20, 2009 for **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).

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

**Mayor Lockwood:**

Would the City Clerk please sound the next item?

**City Clerk Marchiafava** read Agenda Item 09-836.

**U09-02/VC09-02 - 15150 Birmingham Hwy, Application by Robb Nestor to obtain a use permit for a landscaping business on 3.926 acres at a density of 387.92 square feet per acre (Article**

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**19.4.27). Applicant is also requesting concurrent variance to allow access from a local street (Article 19.4.27.B.1).**

**Community Development Director Wakefield:**

As was stated this was also a use permit for a landscape business with a three part concurrent variance. This was before Mayor and Council April 27<sup>th</sup> at which time a deferral was granted to allow the applicant the opportunity to add additional concurrent variances to address the existing structure on the site. As you know when you add concurrent variances it has to go back to the Planning Commission. This matter went to the Planning Commission May 26 2009 however the Planning Commission recommended a deferral to allow the applicant to submit a revised survey. Therefore, staff is asking that this matter be deferred until the July 20, 2009 Mayor and City Council meeting. It will go to the Planning Commission on June 23<sup>rd</sup>.

**Mayor Lockwood:**

Are there any questions for staff on this item? I would like to have public comment in support of this item.

**City Clerk Marchiafava:**

There is no public comment cards submitted.

**Mayor Lockwood:**

I will close the public hearing. If there are no questions for staff, do I have a motion and a second?

**Motion:** Councilmember Tart moved to defer until July 20, 2009, Agenda Item 09-836, **U09-02/VC09-02** - 15150 Birmingham Hwy, Application by Robb Nestor to obtain a use permit for a landscaping business on 3.926 acres at a density of 387.92 square feet per acre (Article 19.4.27). Applicant is also requesting concurrent variance to allow access from a local street (Article 19.4.27.B.1).

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

**Mayor Lockwood:**

Would the City Clerk please sound the next item?

**City Clerk Marchiafava** read Agenda item 09-869.

**RZ09-02 - Text amendment to amend Article 22.3.1 Variances: Variance Considerations. First Presentation on June 1, 2009.**

**Community Development Director Wakefield:**

This is a text amendment to the Zoning Ordinance Article 22 which is the section related to appeals. This is in regards to variance considerations for signs. We are just trying to clean up the language to make it a little bit clearer that relief to the Sign Ordinance may only be granted where existing foliage or structures bring about a hardship whereby a sign meets maximum letter size square footage and height requirement cannot be read from adjoining public road. Both the Planning Commission and staff recommend approval with the exception that the Planning Commission did not feel that it was necessary to have the word maximum in the standard but staff feels that word just brings additional clarification to it.

**Mayor Lockwood:**

Are there any questions for Ms Wakefield?

**Councilmember Thurman:**

My question is concerning the maximum letter size. How would that determine, a lot of time it is logos, I am afraid that putting maximum in there may actually confuse things even more because, typically on a sign, you cannot have all the letters being the maximum size.

**Community Development Director Wakefield:**

That is correct.

**Councilmember Thurman:**

Because you have a logo or something with it so is it better to have maximum in there or is it better to just not have it at all and assume, because regardless the BZA has the authority to say yes or no.

**Community Development Director Wakefield:**

That is correct and I understand your point. I do not know if the City Attorney wants to weigh in.

**City Attorney Ken Jarrard:**

The only thing that I would offer up is that, and why I understand what staff is trying to do is that before you authorize seeking a variance to your rules the messenger giving back to the sign owner is, you have to do everything within your power, whatever we will allow under our ordinance to make the sign readable without a variance first. Then if you cannot do that, because there are objective maximum size, but I think what you are saying is that sometimes signs are a "hodge podge" with some maximum and some smaller.

**Councilmember Thurman:**

Right and there are times that you may rather give them a variance than having the letters bigger that does not look as good so I think we are taking away some of the flexibility.

**City Attorney Jarrard:**

That is why we are in the viewable position of asking you all to make that pause and determination and at least I understand what staff was trying to do and that is to put the burden on the sign owner to have to maximize what the law allows before they seek a variance. I think that was the intent.

**Councilmember Thurman:**

I think sometimes if your rules are too strict, you may achieve the rule but may not achieve what is best for the area and I think that in this case I would rather not have maximum in there and let the BZA, they can always deny it and I am sure they are plenty capable of denying things so I would rather not have the maximum in there rather than always having a sign be maximum letters.

**Councilmember Zahner Bailey:**

I do understand the point about maximum letters. Ms Wakefield, maybe you could address this, and without having that other language before us, I will ask you within the signs and the overlay, I know that there is some proportionality that gets discussed, I thought that talks, maybe not about maximum letter but there are portions of signs, the height and width and different things and I know that in theory, some

of those proportions and height and width and overall size could effectively limit the size of a particular letter so I am wondering if there is not some language there that avoids the risk of maybe somebody trying to come in with larger letters and still have the ability to address with staff some of their concerns. I just throw that out there as something to consider.

**Community Development Director Wakefield:**

Robyn was just saying that we could just say the maximum square footage in height and that would take care of that.

**Councilmember Thurman:**

That is fine. To me that makes it easier.

**Community Development Director Wakefield:**

Ok.

**City Attorney Jarrard:**

So, take out letter size.

**Councilmember Thurman:**

Take out letter size.

**Senior Planner Robyn MacDonald:**

Or you could leave out maximum in front of letter size and start maximum on height.

**Councilmember Thurman:**

They have to meet letter size regardless so I do not think you need letter size in there at all.

**Mayor Lockwood:**

Are you clear on that Mr. City Attorney and staff?

**City Attorney Jarrard:**

Yes.

**Community Development Director Wakefield:**

Yes.

**Councilmember Zahner Bailey:**

If I may Mayor, I have one other question. I know that the Planning Commission in particular had wanted to substitute maximum for minimum because they felt that that was a reversal of the logic, so again just to be sensitive to their concerns I think this accomplishes both, but I would ask Ms Wakefield or Mr. Jarrard to speak to that.

**City Attorney Jarrard:**

The only issue and it is one of those sort of ivory tower esoteric things you might not even think about until it comes up is will we be in a situation where someone comes and seeks a variance for signs and you are looking to Alice and she reports and the letter size of the sign is not as large as it could be and if the letters were larger it could be read at the distances that are being complained about and is that going

to work against them when they seek a variance. The council or the BZA may say if you made your letters bigger, we would not be in this problem. Maybe the Council is comfortable saying that is for the BZA to make that call.

**Councilmember Thurman:**

That is what they ought to say. They ought to say, hey make your letters bigger or do not worry about the variance.

**Councilmember Lusk:**

I think we addressed case and point here tonight, like we approved an alcohol beverage license for cue restaurant. I cannot imagine their name in 4 inch letters on a 2x4 foot sign so I think it is a good point. I would agree to eliminate maximum.

**Mayor Lockwood:**

Ok, do we have any public comment?

**City Clerk Marchiafava:**

No public comment.

**Mayor Lockwood:**

I will close the public hearing and open it for any other Council discussion.

**Councilmember Zahner Bailey:**

I guess asking the question slightly differently just to be sure from a legal perspective, knowing that the Board of Zoning Appeals hoped to have some clear direction so that when these experiences do come to them that they are in compliance with the intent of the law as well as giving them the parameters that they need, do you Mr. Jarrard feel that we accomplish that with this modification.

**City Attorney Jarrard:**

Councilmember Zahner Bailey I am comfortable. We have gone through the various arguments here but there is nothing one way or the other that makes this less or more legal. I am very comfortable with it.

**Councilmember Zahner Bailey:**

When it goes to the BZA that they still have the parameters that they need to keep them within the confines of what that was intended.

**City Attorney Jarrard:**

They do and within the hardship language the BZA could simply say, it is not a hardship, you have not maximized what the law would allow you to do.

**Councilmember Zahner Bailey:**

Thank you.

**Mayor Lockwood:**

If there are no more questions, do I have a motion and a second?

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**Motion:** Councilmember Thurman moved to approve Agenda Item 09-869 and 09-870, RZ09-02 and RZ 09-03 as presented, removing the words letter size from 22.3.1.

**Mayor Lockwood:**

I think we need to do these separate.

**City Attorney Jarrard:**

We do and I apologize because I did not speak quickly enough.

**Motion restated:** Councilmember Thurman moved to approve Agenda Item 09-869, RZ09-02 – Text amendment to amend Article 22.3.1 Variances: Variance Considerations as presented removing under section 22.3.1 the words letter size.

**Second:** Councilmember D’Aversa seconded the motion.

**Discussion on the Motion:**

**Councilmember Tart:**

I have one question because the way you read the motion, I understand what you are trying to do but the way you read the motion you are working off what is written now so the move of the only was not captured in the motion and also the current Ordinance has the word minimum.

**Councilmember Thurman:**

I said as presented by staff so that would be the...

**Councilmember Tart:**

So you said as presented by staff with?

**Councilmember Thurman:**

Deleting the words letter size out of that one section.

**Councilmember Tart:**

Ok, so it would read whereby a sign meeting maximum square footage and height requirements cannot even ...

**Mayor Lockwood:**

I would ask staff and legal. Ok, we have a motion and a second.

**Vote on the restated motion:** There was no further discussion. The motion passed unanimously 7-0.

**Mayor Lockwood:**

Would the City Clerk please sound the next item?

**City Clerk Marchiafava** read Agenda Item 09-870.

**RZ09-03 - Text amendment to amend Article 33 Signs: Section 11 Considerations.**

**Community Development Director Wakefield:**

This is the same situation as the previous item except for this is addressing Article 33 of the Zoning Ordinance which is the Sign Ordinance which is portion and within that particular document there is a standard relating to variances and in order to make the language consistent we are asking that for approval of the same language with removal of letter size.

**City Clerk Marchiafava:**

There is no public comment.

**Mayor Lockwood:**

Ok, I will close the public hearing and ask if there is any Council discussion. If there is no discussion, do I have a motion and a second?

**Motion and Vote:** Councilmember Thurman move to approve Agenda Item 09-870, RZ09-03 – Text amendment to amend Article 33 Signs: Section 11 Considerations as presented by staff excluding the words letter size from section 11d. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**UNFINISHED BUSINESS**

City Clerk Marchiafava read Agenda Item 09-871.

**Approval of an Ordinance to Adopt Amendments to the fiscal 2009 budget for Each Fund of the City of Milton, Georgia Amending the Amounts Shown in Each budget as Expenditures, Amending the Several Items of Revenue Anticipations, Prohibiting Expenditures to Exceed Appropriations, and prohibiting Expenditures to Exceed Actual Funding Available.**

**ORDINANCE NO. 09-06-45**

**Finance Manager Inglis**

- Staff recommends a decrease in the budget to account for revenue shortfalls in the amount of \$1,492,860.
- We have held the two public hearings required by state statute.

**Motion and Second:** Councilmember Zahner Bailey moved to approve Agenda Item 09-871, Approval of an Ordinance to Adopt Amendments to the fiscal 2009 budget for Each Fund of the City of Milton, Georgia Amending the Amounts Shown in Each budget as Expenditures, Amending the Several Items of Revenue Anticipations, Prohibiting Expenditures to Exceed Appropriations, and prohibiting Expenditures to Exceed Actual Funding Available. Councilmember Tart seconded the motion.

**Councilmember Thurman**

- Thanked the Stacey and Chris for going over line item by line item with her and all of their hard work on the budget amendment.

**Councilmember Zahner Bailey**

- Also thanked them.
- They did the same thing for her and others.
- They were well versed and very responsive.

**Vote on the Motion:** There was no further Council discussion. The motion passed unanimously 7-0.

**NEW BUSINESS**

City Clerk Marchiafava read Agenda Item 09-883.

**A Resolution Establishing the city of Milton community Identification Sign Program.**

**RESOLUTION NO. 09-06-97**

### **Community Development Director Wakefield**

- In March of this year Mr. Buck Bell along with several business owners in the Crabapple area approached the City Council seeking permission to install several banners to promote the Crabapple area and to create a community identity and pride.
- Staff researched the matter as to how such signs could be allowed without violating the Sign Ordinance or without opening the door for sign clutter as directed by Council.
- The purpose of this Resolution is the result of staff's work.
- The Community Developing Department is proposing the creation of a community identification sign program.
- The community ID program in terms of this policy is banners placed on light poles in the right-of-way designed to acknowledge distinct and commercial areas in the City.
- It is consistent with the Sign Ordinance and in and of itself does not necessitate any changes to the municipal code regarding signage.
- Staff proposes the signs be for the following areas: Crabapple Crossroad as defined in the overlay, the Birmingham Crossroad, and the Highway 9 commercial corridor area.
- DRB reviewed this proposal on June 2, 2009.
- They voted unanimously to recommend approval of the program.
- There are some revised changes proposed by the City Attorney.
- On page one they took out the word City because some right-of-ways are State.
- It is the same on page two.
- At the bottom of the page, item 11, they revised the language per the City Attorney that it would be proposed by interested citizens and stake holders.
- They do not want to eliminate the opportunity for anyone to make a request.
- In 12f, some additional language that was added that the City of Milton shall be authorized to require proof of a long term maintenance funding viability.
- Item 3 they inserted the language in addition if applicable the proposal will be reviewed by the utility company and the Georgia Department of Transportation.
- There are procedures with both Georgia Power and GDOT to allow these types of banners on their poles.
- When a request comes forth we will make sure we get approval from both of those entities.
- Item 15, we added some additional language added by the City Council relating to easement rights.
- Staff's recommendation along with the Design Review Board is approval.

### **Councilmember Tart**

- Where we define established or unique areas, we defined via overlays what the Crabapple and Birmingham Crossroads would entail but we do not define the Highway 9 commercial corridor, asked if there was a way to define that.

### **Community Development Director Wakefield**

- We left the language vague so when the stakeholders groups come through they could define the boundary at that time.

### **Councilmember Tart**

- On item 7 where you say community identification sign for parallel structure within the rest of the document and especially in the permitted usage section it needs to say community identification signs.
- Back to item 2, instead of saying the Highway 9 commercial corridor, his motion will be to just say Highway 9.
- Asked if there was something in item 14 that deals with the City Council being the one to approve or deny the application.
- Asked if there would be an appeal process in place or if the decision of the Council be final.

**City Attorney Jarrard**

- This does not have an identified appellant process.

**Councilmember Tart**

- The other addition he would add to 18, the Mayor and Council have the right to remove any identification sign without cause, as part of the motion he would say the right to authorize the removal of.
- Ms Wakefield made a statement that this does not conflict with our Sign Ordinance and he needs an explanation because the banners brought before them before, unless he is mistaken, those banners as what had been proposed thus far would conflict.

**Community Development Director Wakefield**

- The way it was proposed before there was no type of program that would allow these signs.
- Most of the businesses that were requesting the banners already have their free standing signs and given the fact that we have structured this such that the signs will be in the right-of-way the Sign Ordinance does not apply.

**Councilmember Zahner Bailey**

- A recommendation would be that this goes to the Planning Commission.
- With regards to Highway 9 commercial corridor, she agrees they want to be as specific as they can without being over limiting, she would recommend that if this goes back to the Planning commission, she heard staff say that they would be willing to better define that, she would recommend we would want to specifically define what that means even if it is just to give geographic boundaries.
- She does support a sign program like this but the questions she has, has to do with frequency of signs.
- She is concerned about speaking to the frequency or size of these banners because it is outside of the Sign Ordinance and they could end up with some unintended consequences.
- She would ask the staff and maybe the Planning Commission to think about how we would take away some of that subjectivity.
- She can see how they would have different views in the community about how many is too many and how many is just right.
- She thinks giving some thought to that in advance would be helpful and would help achieve our goals.
- She would ask for the same consideration with regard to size of the banners.
- Clarification as it relates to what can be on the signs, she assumes it is not to promote the individual businesses but instead to promote the area but because this language is silent on that, as long as the intent is not to promote individual business, she thinks we need to make that statement clear and it is not clear in this document.
- We have an opportunity to be more specific so as to remove potential questions going forward.
- Knowing that Crabapple is different from Birmingham is different from Highway 9, the frequency, the size as well as the messaging on these could be quite different.
- She is not sure how best to capture that but obviously what is rural to Crabapple is quite different than what is rural to Birmingham which is different that is unique to Highway 9 and her goal would be to try to do something to remove that subjectivity.
- Item F, the addition under 12, where it now inserts ,shall be authorized to approve long term maintenance funding, asked if we should define what required proof is or is the City Attorney comfortable that we will know it as we see it.

**City Attorney Jarrard**

- We talked about that and typically what they are used to seeing on roads and things are bonded requirement but that is not going to work here.
- You might just have to give your staff the requisite authority to maybe look at some financial records to make sure that they will be responsible financially for the long term maintenance of these signs.

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- That is why we also put in there the safeguard that says in the event the funding for long term maintenance dries up, Council has the right to take the signs down.

**Councilmember Zahner Bailey**

- With regards to the capture under 14, you mentioned that the process for any appeal of a decision, that it would not go to the BZA but would go to an entity outside our jurisdiction, asked if that was correct.

**City Attorney Jarrard**

- That is correct.
- Any appeal will be on very tenuous grounds.

**Councilmember Zahner Bailey**

- Under 14 where it says, with said approval or denial to be the sole discretion of the Council, she wanted to verify how that language which differs from the authority vested in the Design Review Board, when we converted our Design Review Board from a recommending body to a decision making body, asked if this language was different in any way, not that it is in conflict but is that language different than what we did when we modified the authority of the Design Review Board.

**Community Development Director Wakefield**

- It was her understanding that the Design Review Board authority was related to the overlays and how they review site plans and the various sections of the overlay and apply those to particular proposals.
- She felt given they were talking about signage and talking about a public right-of-way that it made sense that the DRB along with staff would review and make recommendations but the ultimate decision would be up to Council.

**Councilmember Zahner Bailey**

- So this language is different from that language.

**City Attorney Jarrard**

- Yes, that is exactly right.

**Councilmember Zahner Bailey**

- Because these are programs it is not as though each sign necessarily for each season is going to be reviewed by a different entity, although, if the message changes or the color changes, asked what that process would be.
- This document does not address that.
- Our collective intent would be to have a program we could all feel good about and embrace.

**City Attorney Jarrard**

- If you look at the structure of the entire document, you will have to have a private entity paying for the upkeep, the installation, the design and the manufacturer.
- He thinks there will be some self limiting strictures on how often they can change.
- There will be some self limiting financial strictures.
- If someone had the wherewithal that continue to have these initiatives to have these changes, his thought was that the Council would embrace.

**Councilmember Zahner Bailey**

- Absolutely, it was her understanding that there would be some season rotations, it is just that this document does not seem to speak to the fact that if those change that it would still come back to us and she would want to make that clear that it is not an approval for a program forever.

- The coloring and messaging could all potentially change so her perspective is that we might want to capture that somehow.
- Overall her comment would be if we could provide some of these nuances and changes in the written document and afford the Planning Commission a chance to review it out of consideration for them.

**Councilmember D'Aversa**

- On number 2 with regard to Highway 9 she wants to make sure we remove commercial corridor.
- She would like to see us stop using that language.
- She does not think commercial corridor defines anything at all.
- She would make the recommendation and suggest that these signs are beneficial enough to the Windward Parkway portion of Milton as well as the Deerfield Highway portion of Windward and maybe that type of a definition, the Highway 9, Deerfield Parkway and Windward portions as appropriate unique areas of Milton would be the definition that she would use.
- We have heard numerous time how challenging sign ordinances can be with regard to litigation from sign companies and she just wants to make sure they have covered themselves and left themselves open to a group that we would not want, even though we have the approval process.
- She wants to make sure they cannot come in and say we gave it to someone so we should give it to them and it be something that is not fitting the City of Milton or any other City

**City Attorney Jarrard**

- The drafting of any sign code is fraught with first amendment peril.
- A couple of things mitigate against that in this situation.
- We should think of these as functional utility signs.
- These are signs that are City signs in your right-of-way.
- Think of them almost like speed limit signs.
- They framed it that way purposely.
- They are in your control and the case law is very clear that you have the right to do that and you have the right to make those forms of expression as City government.
- This is a very limited City sign, a City utility sort of sign that is going to have these characteristics.

**Councilmember Thurman**

- As she understands this they would have to come before Council and the Design Review Board for approval every time they change signs and we could know what the sign would look like and what area they would cover, asked if that was correct.

**Community Development Director Wakefield**

- That is correct.

**Councilmember Thurman**

- She would prefer then that they not go into a lot of other details.
- We can always deny it if we do not like it.

**Councilmember Lusk**

- Seems to be a lot of concern about the definition of the installation along Highway 9.
- In the interest of specificity, since these signs are going to be in the right-of-way, he would define it as the Highway 9 public right-of-way which fairly well defines the limitations.
- It might further state the Highway 9 right-of-way between the County line and the City of Alpharetta line.

**Councilmember Zahner Bailey**

- In addition to this not yet having gone to the Planning Commission, asked if this was taken to the Highway 9 committee they put in place to review Highway 9.

**Community Development Director Wakefield**

- It was not.

**Councilmember Zahner Bailey**

- She thinks this body has put forward committees that often time we speak about the importance of our volunteers and the commitment they have made and she thinks the Planning Commission and the Highway 9 Committee should take a look at this.
- The frequency and size is not discussed and still leaves it very subjective, so she assumes someone could come forward and ask for a sign on every pole and it could be size parameters that go beyond our Sign Ordinance.

**City Attorney Jarrard**

- They could ask for that.

**Councilmember Zahner Bailey**

- Again, she supports a community sign process but she thinks they have an opportunity, if we could modify it, verify how Highway 9 should be defined and give at least a little bit of clarification.
- She thinks it would be prudent if they took a few weeks and if they did let the Planning Commission and Highway 9 Committee review it, asked if they could have it back in July.

**City Attorney Jarrard**

- He does not know when the Highway 9 Committee meets but from the standpoint of getting it back on the agenda, it is subject to your rules.

**Councilmember Zahner Bailey**

- This was not on a Work Session so this has really been their first opportunity to have dialogue about it.

**Councilmember Hewitt**

- On the frequency and size issue, it may be a less frequent in one area than another and he thinks those needs to be defined as the areas come before them, versus in the raw document.

**Mayor Lockwood**

- He thinks he is hearing on the whole Highway 9 area it is not so much about the signs but the connotation of what they are calling it.
- We need to separate that from this issue being discussed.

**Councilmember Tart**

- He does not want people to read this and say Highway 9 commercial corridor and say that we are only talking about Highway 9 because there could be a need on Deerfield and Windward Parkway as well.

**Mayor Lockwood**

- Asked Community Development Director Wakefield if typically our sign issues went before the Planning Commission.

**Community Development Director Wakefield**

- Typically they go before the Planning Commission if there is an amendment to the Sign Ordinance, but this is a policy document so we did not take it to them because it was not dealing with zoning.

**Motion and Second:** Councilmember Thurman moved to approve Agenda Item 09-883, A Resolution Establishing the City of Milton Community Identification Sign Program with a change to number 2 where it says established or unique areas, Crabapple Crossroads as defined by the City of Milton overlay, Birmingham Crossroads as defined in the City of Milton overlay and Highway 9, Windward Parkway, Deerfield Parkway corridor. Councilmember Hewitt seconded the motion.

**Discussion on the Motion:**

**Councilmember Zahner Bailey**

- She heard Ms Wakefield say that typically an amendment to our Sign Ordinance would go to the Planning Commission, this does modify our Sign Ordinance just in a more creative way, asked the City Attorney if legally, this is introducing a mechanism for signs that does not currently exist in our existing Sign Ordinance.

**City Attorney Jarrard**

- He does not think it is a Sign Code amendment.

**Councilmember Zahner Bailey**

- Her question was whether or not effectively it is a creative mechanism to allow us to handle signage in areas separate from our sign code.

**City Attorney Jarrard**

- The sign code affects how private entities within the City can erect a signage.
- This is an internal Resolution on how the City of Milton can erect signage in its own right-of-way.

**Councilmember Zahner Bailey**

- For the record she does support a program, but she does believe however as a function of process, we owe it to the volunteers that sit on the Planning Commission and the Highway 9 overlay committee to have seen this.
- She thinks it would have been advisable to have discussion at a Work Session.
- It is unusual that the first time they see a revised document is this evening with no work session or no input from the Planning Commission and committee members.
- For that reason she cannot support the motion.

**Councilmember Thurman**

- For clarification this is a Resolution and not a change to any kind of Ordinance.

**City Attorney Jarrard**

- That is correct.

**Councilmember Tart**

- They had said the Sign Ordinance deals with how private entities would deal with their signs but we have also said before that it would not be in the best interest of the City and we not want to be in violation of our own Ordinance.
- That is an unstated rule we go by.

**City Attorney Jarrard**

- Yes, some cities and counties embrace that and some do not but yes as a general rule that is what has guided this Council.

**Councilmember Tart**

- That is his conflict, this is not contradictory to our Sign Ordinance but in effect, if what they have seen before them is what they carry through the approval process, because our Sign Ordinance does not address those types of signs, this is not in conflict with our Sign Ordinance.

**City Attorney Jarrard**

- He does not think the sign code would allow private signage in your right-of-way but the sign code allows City erected signs in your right-of-way and that was the whole genesis of this.

**Vote on the Motion:** There was no further discussion. The motion passed 6-1, with Councilmember Zahner Bailey opposed.

**City Clerk Marchiafava** read Agenda Item 09-884.

**Approval of a change order in the amount of \$392,200 revising the City of Milton and CH2MHILL contract for additional services for National Pollutant discharge Elimination System (NPDES) Permit Compliance for 2009.**

**Carter Lucas, Principal Engineer**

- This additional service is being offered to assist the City with compliance to a 2009 storm water requirements.
- They are generated from two main components and are established by our NPDES storm water permits as well as the requirements of the metro north Georgia Water Planning District.
- Both programs are intended to establish several objectives.
- One is a transition from a reactive to a proactive approach in the management of our storm water facilities and improvement from non point sources of pollution.
- These are sources of pollution from rain water as it travels across the ground and picks up contaminants as opposed to point sources such as sewer plants and industrial type facilities.
- The program has several key elements.
- Education and involvement of the general public, monitoring our water quality, identifying and mapping the system components and developing a program to maintain the functionality of those components.
- It also establishes some regulatory measures which help protect future developments from future flood hazards.
- The NPDES permit was established under federal law of the clean water act and requires operators such as the City of Milton to reduce pollutants to the maximum extent possible.
- Milton has been issued a phase II permit and that is what we are operating under.
- We are audited each year on compliance with that permit.
- The program has established a series of minimum control measures.
- Public education and outreach, participation of the general public, illicit discharge section and elimination, construction site runoff, post construction runoff control and pollution prevention and good housekeeping.
- The other component comes from the metro North Georgia Water Planning District.
- It was created in 2001 to coordinate issues within the 15 county metro area.
- It has established the water shed management plan, wastewater plans and water supply plans.
- To the components of the district requirements and the NPDES program are tied together.
- The scope of services that have been established was broken into ten items.
- There are four items that are currently identified through the City contract and they are the printing of the pamphlets, contract for the retro fit and evaluation of the NRCS and a contract for the third party stream monitoring.
- Those items are currently budgeted and with our discussion with Fulton County it is entirely possible that the contract for the habitat and biological monitoring will be covered by the county.

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- Task 1 and task 2 are public education and participation portions.
  - Designs and drafting and pamphlets that will be distributed.
  - They can be distributed by the schools systems, handouts and our business license, however we deem appropriate.
  - Drafting and submitting two storm water articles that will be published in the paper, maintaining our web site and marking of 100 storm drains and the participation and coordination in one stream site cleanup.
  - Task 3, when they talk about the elicit discharge and detection program, this is an opportunity for the City to find pollutant sources that we may not be aware of.
  - Elicit connections to our storm sewer system and this will involve dry screening 30% of the known outfalls by the end of the year.
  - During dry periods the testing would be to go out and observe those outfalls for odor, color, sediment.
  - They will test for ph, temperature and conductivity and the testing will increase based on the results of those.
  - Task 4, our municipal separate storm sewer system is where we get into the inventory of the system.
  - This helps establish a base line of what the current system is and establishes a capital improvement program for the future.
  - Through the end of 2009 they are to have inventoried 50% of the system.
  - Right now they estimate the system includes about 2200 structures.
  - As they move forward they are looking at additional 20% each year so by the 2010 they will be looking at 70%.
  - The inventory will include a general location of the structure, size, material and condition of that structure.
  - Based on that, that is when they really begin to establish what the actual inventory and condition of inventory and potential capital programs will be.
  - Task 5 is the storm water post construction storm water management.
  - They begin to inspect existing storm water management facilities.
  - Facilities that are already there, storm water ponds etcetera and they will coordinate with property owners on best practices with those ponds.
  - We are looking for 20 storm water management facilities and identification of an additional 20% for the 2010 program.
  - Operation and maintenance of the facilities ties back to task 4.
  - This establishes a proactive program where they are inspecting the systems and cleaning them before problems start to occur.
  - From a maintenance stand point the goal is to have a five year program where every structure is inspected and maintained over a five year period.
  - Task 7 is the pollution prevention, the good housekeeping portion of the program.
  - This is in house training.
  - We have discussion with staff and contractors regarding proper maintenance activities, disposal of debris, proper use of herbicides and pesticides and any activity which affect the general quality of the water and storm water issues.
  - They will continue the normal street cleaning activities and the support of the Adopt a Road program and a water quality assessment of 30 existing storm water facilities.
  - In addition to the inventory they have done in the previous task, the water quality assessment goes back and tries to determine if those ponds could be effectively retro fitted to provide better quality than what they do now.
  - We look at the installation of trash rack and debris screens, landscaping or simple maintenance of those facilities.
  - Those recommendations are taken back to the property owners.
  - One of the other task that is required from the district is coordination with the other plans.

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- The district has determined a long term waste water plan and the water supply and conservation plan and most of what they will be doing with that is coordination with the county to ensure the success of their programs.
  - Task 9 is the development of the future flood plan.
  - A little bit different than the FEMA requirements the district is requiring that the jurisdiction develop future flood plain models.
  - This is a flood plan based on future land use either from the future land use maps or from the best available information that they have.
  - This task will define the drainage basins throughout the City but will do a detailed study of the southern portion of the City and the Cooper Sandy Creek basin.
  - The district allows the communities to phase these studies in so the city wide future flood plain maps would be completed by 2013.
  - Task 10 is the project management which would involve the supervision of all the NPDES requirements, the district requirements, the development of the annual report and our monthly report.

**Councilmember Lusk**

- The last item is establish regulatory measure to protect future flood hazards, asked if the regulatory measure already established by the state.

**Carter Lucas**

- They are and we have adopted the Ordinance.
- This really refers to the development of the future flood plain map.
- We have the Ordinance in place that requires regulating to that future flood plain but we need to develop the map to support that Ordinance.

**Councilmember Lusk**

- Task 4, inventory mentioned locating all of these structures, asked if they would locate them with a GPS co ordinance.

**Carter Lucas**

- The initial one done by IMS has some of it done.
- This study where we will be doing it in the field will not be GPS co ordinance but will be mapped by our field crews.
- He does not know if they have access to the equipment for the GPS but they can look into that.

**Councilmember Lusk**

- Their operation and maintenance goal is to cycle every five years, asked if they had counted for any growth in that period.

**Carter Lucas**

- It is a task that could grow as we begin to grow.
- All of the task are based on the best available information that they have so the number of facilities they have out there, they certainly would expect those to grow and as they grow they would modify the program to fit those and modify our requirements to the permit.

**Councilmember Lusk**

- Task 8 with the water planning district co ordination, co ordination of the plan requirements with Fulton County, asked how that comes into play since we have taken over all of the roads.

**Carter Lucas**

- It is co ordination through the water conservation plan and the wastewater plan that the district has developed.
- In support of those plans, they would take whatever steps they can to assist them at the local level such as septic tank maintenance, providing information to homeowners on water conservation.
- The things we can help on the district requires us to co ordinate those with the county.

**Councilmember Lusk**

- Asked what group in the organization is actually going to do this.

**Carter Lucas**

- David Chastant with the storm water group has been instrumental in the development of this and Jim Seeba will be leading that effort.

**Councilmember D'Aversa**

- Asked if there was any greater breakout on what the \$392,000 is.
- Are there any other groups or consultants that they are hiring and is this expended by the end of this fiscal year?

**Carter Lucas**

- It is expended by the end of the calendar year.
- This will all be done and following years they would come back and there would be additional services to pick up those items that come in years 10, 11 and 12.

**Councilmember D'Aversa**

- Asked how the \$392,000 expends over that time period.

**Carter Lucas**

- It just covers the permits compliance for 2009.

**Councilmember D'Aversa**

- In 2010 we will have additional to be compliant.
- Asked if it was approximately the same amount of money.

**Carter Lucas**

- It is probably about the same amount.
- He thinks what they will see over the years as we begin to understand what the system is and what is out there, some of the money that is involved in inventorying and inspections will roll towards capital programs.
- Over the next three to four years he would guess this funding level would be about the same.

**Councilmember D'Aversa**

- Asked if there was any way to reduce this or is this as inexpensively as they can handle the process.

**Carter Lucas**

- They looked very hard at trying to reduce cost in this and at \$392,000 they are over \$40,000 less than what was budgeted.
- We did whatever we could to get the price down before we presented to Mayor and Council.

**Councilmember Tart**

- Task 4 for the municipal separate storm sewer system, develop a storm sewer map, asked if Fulton County had already done that.

**Carter Lucas**

- They do not have an inventory of the existing storm sewer system that he is aware of.

**Councilmember Zahner Bailey**

- She had posed the question earlier about whether or not they had an opportunity before to go out and get some competitive bids and from her understanding there was not enough time to get some alternative bids.

**City Manager Lagerbloom**

- Starting this project on June 1<sup>st</sup> which is not faulted to Council or staff, they just did not have anyone to jump start this at the beginning of the year.
- He believes at this point this is the one option the City has to meet compliance by December 31<sup>st</sup>.
- He is not comfortable saying if they did a 60 day bid process, they could award something to meet the deadline of December 31<sup>st</sup>.

**Councilmember Zahner Bailey**

- Thanked the City Manager for clarifying that.
- Obviously we do not want to be out of compliance with.
- Some of these tasks our volunteers have been engaged with, including the Milton Grows Green Committee.
- They have been doing it at no cost, including public outreach and rivers alive and storm drain markers, so when she thinks about \$400,000, she would ask if they could get a little bit of a sharpened pencil to some of those tasks whereby she knows they have had some volunteer efforts that really help to meet the permitting requirements.
- She thinks it would only do this process justice if she asked to go back and make sure that some of those things where they have had volunteers that are helping the city to be in compliance in several of those critical areas, that we ensure we are not paying a third party for those things that have already been taking place and continue to take place.
- If we could just make sure we are not double paying for things that volunteers are helping to do she would appreciate that.

**Carter Lucas**

- We did take some of those things into account.
- Having been through this with last year's permit and being involved with Jim Seeba, we tried to take into account those activities that were assisted through the committees and volunteer efforts.
- That is one of the reasons why they were able to get so far under the current budget was.
- We have done that to the best of our ability before they brought it forward.

**Councilmember Zahner Bailey**

- So some of that \$50,000 savings is a function of committee efforts.
- Septic tank maintenance, she would like to see us more proactive with septic tank and working in part with the Community Development Department, asked if Mr. Lucas could speak about whether or not they will have a program that could be rolled out before year end that would speak to the public education process from the city to our citizens as to how we can educate and monitor.

**Carter Lucas**

- He thinks it comes more from Fulton County.

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- The septic tank portion would be the participation of the city and the maintenance and education.
  - That program looks like it will be developed by the county and he does not have a time frame on that at this time but it would be rolled in as part of the district requirements also.

**Councilmember Zahner Bailey**

- Asked, would we want to proactively participate and if that is not part of the plan she would encourage us to proactively participate because we have a unique community and we have an opportunity to be ahead of the curve in doing some things that might be unique to Milton.

**Mayor Lockwood**

- Asked if there were some research done to make sure they were spending an appropriate amount.

**Carter Lucas**

- The district did put together an implementation cost for the program based on per capita cost and that range runs in a community of 29,000 from \$180,000 to over \$1,000,000 so it is a little difficult to do apples to apples comparison with those numbers but it does give you a range of what communities are spending on these types of activities.

**Motion and Vote:** Councilmember Hewitt moved to approve Agenda Item 09-884, Approval of a change order in the amount of \$392,200 revising the City of Milton and CH2MHILL contract for additional services for National Pollutant Discharge Elimination System (NPDES) Permit compliance for 2009. Councilmember Thurman seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**City Clerk Marchiafava** read Agenda Item 09-885.

**Approval of a Contract for Surveys of Bethwell and Crabapple Community Center Properties for \$2,125 and for Birmingham Park for \$10,822.**

**Carter Lucas, Principal Engineer**

- These are boundary surveys for the Bethwell and Crabapple Community Center properties as well as the boundary survey for the Birmingham Park property.

**Councilmember Zahner Bailey**

- With regards to the survey going back to Fulton County when these parcels were acquired, she assumes we are doing this because we do not have legally defined surveys.

**Carter Lucas**

- He tried his best.
- He went through the land department and all the park surveys they pulled as many as they could and provided them to the bidders for their use in developing their bids.

**Councilmember Zahner Bailey**

- Asked if they went to Ecos Environmental which was the third party that had been hired by Fulton County at the time they were doing the Birmingham Master Plan.

**Carter Lucas**

- They did not go to Ecos.
- They were well into the bid process when they got that additional information from the county so the 3 bidders that had originally bid on the project were already established at that point.

**Councilmember Zahner Bailey**

- As a footnote for later, through the recent Birmingham cleanup process, one of the land owners they sought access to in order to do one of the dump clean ups was off Hickory Flat Road and through that discovery process and getting his permission to allow us access to the back of that park land, it became clear that one of the three parcels when it was acquired by Fulton County and transferred to us there was some discrepancy in that language and she brings that to their attention so when they get the survey they can also resolve the questions that he posed.
- One of his parcels became land that was subsequently acquired by the City of Milton.
- That may or may not be part of their survey process but it would be a great time to address that for that citizen.

**Motion and Vote:** Councilmember Lusk moved to approve Agenda Item 09-885, Approval of a Contract for Surveys of Bethwell and Crabapple Community Center Properties for \$2,125 and for Birmingham Park for \$10,822. Councilmember Tart seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**City Clerk Marchiafava** read Agenda Item 09-886.

**Approval of a Task Order for City wide Bridge Inventory and Inspection Study with URS FOR \$32,517.26.**

**Carter Lucas, Principal Engineer**

- This is an expansion of the GDOT bridge inventory they typically do every two years.
- This will do a more detailed of the 28 structures that are currently covered under the GDOT program as well as pick up five additional structures that did not meet GDOT standards for detailed inspection.
- This will confirm or modify the GDOT inspection report and in some cases where bridges have been posted a more detailed evaluation has allowed those bridges to not be posted or modify the repair recommendations.
- This will also go a long way toward establishing a five year capital improvement program and itemizing and prioritizing those bridge repairs that are necessary in our capital program.

**Motion and Vote:** Councilmember Lusk moved to approve Agenda Item 09-886, Approval of a Task Order for Citywide Bridge Inventory and Inspection Study with URS for \$32,517.26. Councilmember D'Aversa seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**MAYOR AND COUNCIL REPORTS**

**Councilmember Lusk**

- Asked Mr. Lucas, he understands that the EPD are continuing to evaluate dams throughout the state, asked if Mr. Lucas had a since of where they were in evaluating the dams in Milton.

**Carter Lucas**

- They have not started as far as he knows.
- Part of the task under the NPDES will be the evaluation of at least 8 of the NRCS dams.
- Some of that is done through community development but there has not been a detailed evaluation of the dams that he is aware of.

**Councilmember Zahner Bailey**

- Asked if they had identified which those 8 dams are.

**Carter Lucas**

- Yes.

**Councilmember Zahner Bailey**

- She asked that they look at the dam on the 202 acres discussed earlier.

**Carter Lucas**

- The 8 dams identified under the program are NRCS flood control dams that were built years ago and this is an evaluation of those facilities to see if they can be retro fed to provide better water quality.

**Councilmember Thurman**

- Wants to make sure everyone has July 15, 2009 on their calendar for the Crabapple Town Hall meeting which will held at the Alpharetta Government Center in Crabapple.

**STAFF REPORT**

**City Manager Lagerbloom**

- There is a change in the Program Manager for this CH2MHILL project.
- Pat Croke has been replaced by Tom Wilson as the Program Manager.
- As an update on the Hopewell Youth Association and Bell Memorial Park and our influence in youth baseball in Milton amongst other questions that you may have received e-mails about.
- He brings it up to let them know that he sent a letter that the Hopewell Youth Association was not in compliance with their facility use permits.
- He sent a demand letter to the Hopewell Youth Association saying they need to come into compliance.
- To date they still have not come into compliance with that permit.
- He has been given several dates as to when they intended on coming into compliance with the permit and to this point they have not.
- They asked for two things from the City.
- One is for a permit as it relates to a tournament that is supposed to happen next week-end.
- The staff has done everything it needs to do to be able to work through a process with them to allow that tournament to take place.
- He has worked with the City Attorney and they are set and ready to go.
- He is not inclined to issue any permits to the Hopewell Youth Association until they come into their compliance with the facility use agreement.
- He thinks that is what needs to happen at this point so they can have them come into compliance with what they are contractually bound to do.
- They have also asked for a permit for an extension in their recreation youth baseball program from July 3<sup>rd</sup> until July 31<sup>st</sup> to which he responded to both request that he would be happy to evaluate them and make decisions once they are in compliance with their facility use permit.

**Councilmember Zahner Bailey**

- Asked the date of the letter he sent to the board certified mail.

**City Manager Lagerbloom**

- He sent it on April 28<sup>th</sup>.
- It was stamped received May 6<sup>th</sup>.
- He received a response that it is coming and the most recent date he heard it was coming was last Friday and before the close of business it was not in the City's hands.

**Councilmember Thurman**

- We are not asking for anything that is a surprise to them or anything they should not have had within 30 to 45 minutes.

**Councilmember Zahner Bailey**

- Assuming you get some new information this week, asked what would occur after that.

**City Manager Lagerbloom**

- We will go through the information to determine it does meet compliance.
- If they bring the information forward that indicates they have made a good faith attempt to comply, he would have a problem with standing in the way of our kids playing baseball.
- As long as he has something that resembles compliance he is likely to let the kids play this week-end but that does not mean we give away our further authority of the contract to ask for more data if we need to.
- He does not want to be in the position to not allow kids to play baseball because of the reporting requirement of a particular board.
- Provided that something is brought forward in good faith, he will meet it with a good faith gesture.

**EXECUTIVE SESSION**

**Added by the City Attorney:** Executive Session to discuss potential litigation.

**Motion and Vote:** Councilmember Tart moved to adjourn to Executive Session to discuss potential litigation. Councilmember Thurman seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

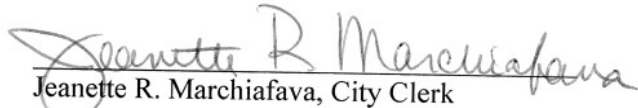
**Reconvene**


**Motion and Vote:** Councilmember Lusk moved to reconvene the regular meeting. Councilmember Hewitt seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**ADJOURNMENT**

**Motion and Vote:** Councilmember Thurman moved to adjourn the Regular Meeting at 9:09 p.m. Councilmember Zahner Bailey seconded the motion. There was no Council discussion. The motion passed unanimously 7-0.

**Date Approved: July 6, 2009**

  
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Jeanette R. Marchiafava, City Clerk

  
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Joe Lockwood, Mayor