

**CITY OF JOHNS CREEK
COUNCIL MEETING
June 16, 2008
7:00pm**

The City of Johns Creek Mayor and Council held a Council Meeting on Monday, June 16, 2008. The meeting was held at 7:00pm in the City Hall Council Chambers located at 12000 Findley Road, Suite 300 in Johns Creek, Georgia.

COUNCIL PRESENT: Post 1-Randall Johnson
Post 3-Karen Richardson
Post 4-Ivan Figueroa
Post 6-Bev Miller
Mayor Michael Bodker

STAFF PRESENT: William Riley, City Attorney
John Kachmar, City Manager
Joan Jones, City Clerk
Patty Hansen, Chief of Staff

PLEDGE OF ALLEGIANCE: Led by Mayor Mike Bodker.

OPENING REMARKS: Mayor Bodker welcomed everyone to the meeting. He reminded everyone of the upcoming June 28th Movies in the Park at Ocee Park, which will feature *The Spiderwick Chronicles* and of the Flags Over Johns Creek that includes a Flag Retirement Ceremony by Girl Scout Troop 2331 in July.

MINUTES: Council Member Johnson made a motion to approve the June 2, 2008 Work Session Summary and the June 2, 2008 Council Meeting Minutes as presented. Council Member Richardson seconded. The motion carried unanimously.

AGENDA APPROVED: Council Member Miller made a motion to approve the agenda with the following amendment to add under New Business Item #3 Consideration of a Community Development Grant thru Fulton County and to add under Reports and Presentation a Fire Department Updates from Assistant Chief Wilson and Attorney Scott Hastey. Council Member Figueroa seconded the motion to approve the amended agenda. The motion carried unanimously.

PUBLIC COMMENT: City Clerk Jones read Public Comment Statement. David Kornbluh addressed the council regarding the added CDBG Agenda Item stating the council has a choice not to vote on this item and asked what would happen if they did not act on this item. Major Thompson voiced his concerns regarding the Transportation Traffic Calming Device information that was presented at tonight's Work Session and asked council to consider legislation on having a three percent cap (3%) on property appraisals. Cleve Gaddis reviewed the JCCA Zoning Process to the council.

CONSENT AGENDA: Council Member Johnson made a motion to approve the Consent Agenda presented as Approval of 2008 Alcohol Beverage Licenses (***Resolution 2008-06-40***) and ***Action Item*** for approval of Privileged Resolution for Eagle Scout Thomas Linthicum of Troop 3143. Council Member Figueroa seconded the motion. The motion carried and the Consent Agenda Items were approved.

ANNOUNCEMENTS: City Clerk Jones read the following Privileged Resolution for Eagle Scout Thomas Linthicum of Troop 3143:

The City of Johns Creek recognizes Thomas Linthicum of Troop 3143 on obtaining the rank of Eagle Scout. Eagle Scout Linthicum completed his community service project in which he constructed two pathways at Saint Columba's Episcopal Church. These pathways, one leading to the playground area, the other to the parking lot, were designed and constructed to blend with the church building. Whereas Eagle Scout Linthicum's project enhances the accessibility to parishioners and visitors alike, it provides for a safer and more enjoyable walkway; the Mayor and Council of the City of Johns Creek hereby recognize and applaud Eagle Scout Thomas Linthicum.

City Clerk Jones announced the following upcoming Public Meetings:

June 17th @ 3:00pm RPAC Sub Committee on Residential Policy
June 17th @ 7:00pm Board of Zoning Appeals
June 18th @ 6:00pm Poll Worker Elections Training
June 20th-June 25th-GMA Conference in Savannah
June 24th @ 5:30pm RPAC Monthly Meeting
July 1st @ 7:00pm Planning Commission Meeting
July 4th City Offices Closed
July 8th @ 3:00pm CVB Monthly Meeting
July 14th @ 5:00pm Work Session followed by 7:00pm Council Meeting

REPORTS & PRESENTATIONS: Mayor Bodker outlined Work Session Items that will be presented at this time, the Memorandum of Agreement for Development of North Fulton Comprehensive Regional Transportation Plan, the Fire Department Defibrillators and the Fire Station Acquisitions.

Mayor Bodker recognized the current Johns Creek Fire Department Personnel: Assistant Fire Chief Pat Wilson, Tonya Whiten EMS Project Coordinator, Emory Ramey, Battalion Chief and Jay Rollins, Training Chief. Assistant Chief Wilson presented council with information on the purchase of Fire Department Defibrillators (7) including the monitors for total cost of \$149,130.80 which will be out of the General Operating Budget. These defibrillators outfit the fire engines, ladder trucks and rescue vehicles. This order of defibrillators is separate from the Heart Ready City program is for the police vehicles. A representative from Phillips was present for any questions on these defibrillators.

Assistant City Attorney Scott Hasteley updated council on the Fire Stations Acquisitions. The purchase of Station 8 and Station 12 and the work on the Sub Lease for Station 20 is ongoing. The title exams have been completed and will be updated again prior to the closing transaction. Work continues on the Right of Entry for Station 20, a draft is in review now with Fulton County. The cost is \$5,000 each for Station 8 and 12 with the city subleasing Station 20 due to Fulton County bonded financing. Mayor Bodker reminded everyone of the ongoing challenge to the community to adopt a Fire Station or a portion of a station, by making a contribution to outfit the Fire Stations with new equipment. Further details will be posted on the website.

The Memorandum of Agreement for the North Fulton Comprehensive Plan was reviewed by Transportation Engineer Cindy Jenkins. She outlined the history and time line for implementing this program. The kick off of this plan is January 2009, the funding, commitment between the cities and the decision making process have to be addressed. This is the draft agreement that all cities are looking at with the final agreement to be addressed in July. Johns Creek is the Administrative for this Plan. The representatives for the stack holders will be appointed by the Mayor, once the consultant is chosen, they (the consultants) will have input into the process.

OLD BUSINESS

RZ08-005 SONIC RESTAURANT: The Second Read of Ordinance 2008-05-09 to amend the Zoning Map for Rezoning Case 08-005 and Concurrent Variance 08-005-01 for Sonic Restaurant of the 8400 Block of Holcomb Bridge Road, 1st District, 2nd Section of Land Lots 877 and 878 from C-1 Conditional to change the conditions to allow and additional outparcel and a Concurrent Variance to allow an extra sign was held.

City Clerk Jones read the Zoning Hearing Procedures.

Planning and Zoning Administrator Justin Kirouac presented council with the Staff and Planning Commission recommendations, he reviewed the outparcel limitation, the signage requirements and he defined odor scrubbers.

Mayor Bodker opened the Public Hearing for Rezoning Case 08-005.

Doug Hayley, Director of Design and representative of Sonic Restaurants addressed the council on his application for rezoning. He outlined how Sonic has been working with staff and the community on this project and requested council consider approving this zoning request along with the variance for extra signage and to not require odor scrubbers on this building. He showed a current rendering of the proposed restaurant.

Mayor Bodker called for any opposition for this rezoning case. As there was no opposition Mayor Bodker closed the Public Hearing.

Council Member Richardson made a motion to approve Ordinance 2008-05-09 on RZ-08-005 with Concurrent Variance 08-005-01 subject to the Staff and Planning Commission recommendations, with Council Member Figueroa seconding the motion:

1. Restrict the use of the subject property to retail, service commercial, office and accessory uses at a maximum of 8,560 square feet of floor area, resulting in a total floor area of 89,280. Said retail and service commercial and accessory uses shall exclude commercial amusements and billboards.
2. The property shall be restricted to the revised site plan submitted to the Community Development Department dated May 6, 2008.
3. Limit the height of all buildings to no more than one story.
4. Provide a 65 foot wide natural buffer, undisturbed except for approved access and utility crossing, improvements, and replanting where sparsely vegetated (subject to Arborist approval) adjacent to all property zoned C.U.P and/or developed or zoned for single family residential uses, with an additional 20 foot setback for all improvements plus an additional 15 foot building setback. Provide a minimum 6 foot high fence, 100% opaque fence/wall interior to said buffer.
5. All new construction and/or renovations shall conform to the architectural standards found in Article 12.E of the City of Johns Creek Zoning Ordinance (Community Standards).
6. A second freestanding sign shall be allowed for the subject property. The sign shall be a maximum of 20 square feet and constructed with a brick base of at least two feet in height (VC-08-005-1).
7. Prior to Land Disturbance Approval, the landscape strips shall be upgraded to tree density and planting standards per the City of Johns Creek Tree Ordinance, subject to review and approval of the Arborist, to include replacing equal number of trees as are removed (a tree for tree basis).
8. No additional curb cuts along Holcomb Bridge Road or Nesbit Ferry Road shall be permitted.
9. Odor scrubbers shall be installed on all exhaust ventilation systems.
10. Alcohol sales shall be prohibited on the subject outparcel (as identified on submitted site plan for the Sonic location).
11. Columns between car stalls shall be brick matching the building on the Sonic outparcel building.
12. There shall be a maximum of two wall signs on the Sonic building.

13. Refuse containers shall be surrounded on three sides by brick walls with the fourth side being an opaque gate.

14. The hours of operation for this Sonic building will be from 6:00am to 11:00pm seven (7) days a week.

Under discussion, Council Member Johnson made a motion to amend the original motion to include a condition to allow Sonic Restaurant hours to open at 6:00am and to close at 11:00pm. Council Member Figueroa seconded the amended motion. The amended motion carried 4-1 with Council Members Johnson, Miller, Figueroa and Mayor Bodker voting in support of the amendment with Council Member Richardson opposing the amendment.

Council Member Johnson made a motion to add to staff recommendation item 7 to include replacing equal number of trees as are removed -a tree for tree basis. Council Member Richardson seconded this motion. The motion carried unanimously.

Further discussion was held regarding the outparcel separation requirements, how Sonic Restaurant may help to revitalize the area, and how effective are odor scrubbers. Council Member Figueroa made a motion to delete staff recommendation item 9 the requirement for installation of odor scrubbers. This motion died for lack of a second.

There being no further discussion, Mayor Bodker called for a vote on the original motion. The motion to approve Ordinance 2008-05-09 on RZ-08-005 with Concurrent Variance 08-005-01 subject to the Staff and Planning Commission recommendations carried unanimously. (*Ordinance 2008-05-09*)

RZ08-006-TECHNOLOGY CIRCLE: The Public Hearing and Second Read of Ordinance 2008-06-13 to amend the Zoning Map for Rezoning Case 08-006, Jettison LLC for the 11300 Block of Technology Circle, 1st District, 1st Section of Land Lots 384, 396 and 397 from M-1 A Conditional for a proposed 399 Unit Apartment Complex was held.

Planning and Zoning Administrator Justin Kirouac presented information to council regarding this request for a 399 Unit Apartment Complex on 38.81 acres in the Tech Park Business Park. He outlined the Staff Recommendations and the Planning Commission Recommendations. The applicant has submitted a revised site plan that includes the Planning Commission recommendations.

Mayor Bodker opened the Public Hearing on RZ08-006.

Woody Galloway, representing applicant Technology Park outlined the proposed Apartment Complex, stating Johns Creek Walk has a higher density. He reviewed the zonings of the surrounding properties, stating this is a good use of the property, creating a

transitional use. He introduced Jim Warren who reviewed the history of the Tech Park showing 50% of property is office; this is a smart growth project for the area and is vital to our existing tenant base to offer alternative housing. He explained this site is not an industrial site due to its topography. As 49% of property will not be bulldozed, with the wooded areas, the lake and proximity to office space this area is ideal for this apartment complex. He asked council to consider all options and think of the future of family housing in the area. Mr. Warren introduced Jon Payne, representative of JCCA Zoning Committee and its members who recommended supporting this application.

Mayor Bodker called for opposition and as there are multiple requests to speak, he reminded everyone of the total ten minute time frame.

Bob Biondich, Vice President of Seven Oaks Home Owners Association, outlined how the Seven Oaks community gathered information regarding this application. He cited the Steinberg criteria as reviewed by the city's Planning Administrator, Mr. Biondich specifically highlighted criteria of an undue burden with the addition of a 174 to 199 school age children. He explained there were many Seven Oaks residents in the room and by a show of hands he stated their opposition to this rezoning request. Marcia Ernst Zoning and Land Use Attorney, introduced Ciba Vision Officers and spoke on behalf of Ciba Vision who is most impacted by this application spoke of Ciba Visions opposition to this development. She cited this is a Business/Industrial/Manufacturing Park and outlined the Ciba Visions 24 hour manufacturing process. Ciba opposes this rezoning based on the Steinberg Criteria, the city's Land Use Map. The proposed development would adversely affect the established manufacturing/business of Ciba. Ms. Ernst displayed pictures of the world wide manufacturing facility, highlighting the industrial strength compressors plants, transformers, hazardous chemicals and flammable materials storage buildings and cooling tower units, etc. She asked council to deny this rezoning request.

Ms. Ernst requested more time for her presentation. Counselor Riley advised council of their options. Mayor and Council denied this request for a time extension.

Mr. Galloway addressed concerns raised; citing their studies on other Class A Apartments that indicate the impact of school age children would only be 48 additional students. The site plan has been revised in an effort to work with Ciba Vision, revisions that include a substantial buffer, the building placements, the maintaining of the wooded areas. This complex does not affect Ciba Vision ability to continue. He cited the need for apartment living in the surrounding area.

Mayor Bodker closed the Public Hearing on this Rezoning application.

Discussion was held on the change to the site plan, the buffers, and surrounding land use. Council Member Figueroa made a motion to deny Rezoning Case 08-006 based on Staff Recommendations. Council Member Miller seconded the motion. The motion carried unanimously. (*Ordinance 2008-06-13*)

Mayor Bodker called for a five minute recess.

Mayor Bodker called for the Regular Session to resume.

CHAPTER 13- TRAFFIC AND PUBLIC ROADWAYS: Public Works Director Ken Hildebrandt reviewed the history and the changes to Chapter 13: Traffic and Public Roadways outlining the significant changes which are Douglas Road-reducing the Speed Limit from 45 to 35; Findley Road-reducing the Speed Limit from 35 to 30; Spruill Road-reducing the Speed Limit from 35 to 30mph. Discussion was held on how the public will be notified of these changes and the school zone speed limits, specifically near Woodward Academy and Kimball Bridge Road changes. Council Member Johnson made a motion to approve O2008-06-14 Amending Chapter 13: Traffic and Public Roadways. Council Member Miller seconded the motion. The motion carried unanimously. (*Ordinance 2008-06-14*)

2008 MILLAGE RATE: Finance Director Monte Vavra outlined the proposed 2008 Millage Rate. Discussion was held on how the increase is due from the assessments, the need to build reserves, the possibility of a roll back in the future and to provide for the city services. Council Member Richardson made a motion to approve Ordinance 2008-06-12 and set the 2008 Millage Rate of 4.614. Council Member Miller seconded the motion. The motion carried unanimously. (*Ordinance 2008-06-12*)

NEW BUSINESS:

CH2M CONTRACT: City Manager Kachmar explained this is a time sensitive item as previously discussed in the work sessions. Council Member Figueroa made a motion to approve Resolution 2008-06-41 Renewing the CH2M HILL OMI Contract. Council Member Johnson seconded. The motion carried unanimously. (*Resolution 2008-06-41*)

FIRE DEPT. DEFIBRILLATORS: Council Member Figueroa made a motion to approve the purchase of the defibrillators for the Fire Department as presented. Council Member Johnson seconded the motion. (*ACTION ITEM*)

CDBG FULTON COUNTY: City Manager Kachmar outlined the information received from Fulton County on their request for Johns Creek participation in a Community Development Block Grant program. Mayor Bodker explained to council this is a time sensitive issue; however the city just received this request from Fulton County. Discussion was held on the how participating in this program would benefit the citizens, the cost of participation and the ramifications of not participating. Council Member Johnson made a motion to approve Resolution 2008-06-42 to approve the Fulton County request for inclusion in the make up of a qualifying HUD recognized Urban County under the CDBG Program with the stipulation that prior to signage of said resolution the City Manager research this program between now and June 23rd and share the conclusions with the council prior to communicating with Fulton County. Council Member Figueroa seconded the motion. The motion carried 4-1 with Council Members

Johnson, Richardson, Miller and Figueroa voting in favor, while Mayor Bodker opposed the motion. (*Resolution 2008-06-42*)

OTHER BUSINESS: Mayor Bodker asked council for other business. A brief discussion was held on the July 14th Work Session.

PUBLIC COMMENT: No Public Comments at this time.

MAYOR'S COMMENT: Mayor Bodker thanked everyone for attending and asked for continual community involvement. He wished everyone a safe Fourth.

EXECUTIVE SESSION: No Executive Session was held.

There being no further business, Council Member Johnson made a motion to adjourn. Council Member Figueroa seconded the motion. The motion carried unanimously and the Regular Session for June 16, 2008 was adjourned.

Approved:

Michael E. Bodker, Mayor

Attest:

Joan Jones, City Clerk