

**BOARD OF MAYOR AND COMMISSIONERS  
REGULAR WORK SESSION**

May 19, 2010  
5:30 p.m.

**MINUTES**

**Members Present:** Ed Rieker, Mayor  
David Milliron, Mayor Pro Tem  
Terry Giager, Commissioner  
Gene Lee, Commissioner – arrived at 5:50 p.m.

**Members Absent:** Michael Payne, Commissioner

**Staff Present:** Clai Brown, City Manager  
Juliette Sims, City Clerk

Item No. 1 Meeting called to order at 5:34 p.m. by Mayor Rieker.

Item No. 2 Adoption of Agenda

Mayor Rieker asked that Item 9 and 10 be incorporated together because the Century agreement has the Maple Street Village information in it.

Mayor Pro Milliron stated that the President of the Avondale Estates Business Association is present tonight and she would like to give an update. Mayor Rieker asked that this be added as Item No. 4.

City Manager Brown stated that he would like to add a Proclamation for National Garden Week.

Mayor Rieker stated that he saw the proclamation and that can be added to the agenda for Monday, May 24<sup>th</sup>.

A motion to adopt the agenda as amended was made by Commissioner Giager, seconded by Mayor Pro Tem Milliron, passed with all ayes (4-0).

Item No. 3 Clark, Patterson, Lee Update on Stormwater

City Manager Brown introduced Rich Edinger of Clark, Patterson & Lee. City Manager Brown noted that they are the engineering firm that the City hired to do the Kensington Road drainage analysis and Mr. Edinger is here tonight to give a presentation regarding drainage analysis. City Manager Brown noted that letters

were sent to the residents of the entire Kensington Road area (over 100 letters) that this meeting would be held tonight. Mr. Edinger gave the presentation and answered questions. Mr. Edinger noted that the cost estimate for this project is around a million dollars.

Mayor Rieker noted that there are currently no active plans on the stormwater. Mayor Rieker stated that the presentation tonight was the most important issue in town for stormwater so this is where the City started and the City is aware that there are other problematic areas but this is the one the City wants to focus the energy on right now. Mayor Rieker stated that the City spent \$17,000 on the study presented tonight and it looks like we might need to go back and look at the lower system a little bit more, there is still more work to be done. Mayor Rieker asked that after the board and community have had a chance to absorb the information presented tonight that any further questions be compiled and sent to City Manager Brown who will send it to Mr. Edinger to compile the responses. Mayor Rieker asked that the presentation from tonight's meeting be placed on the website along with the Hydrology Report. Mayor Rieker noted that a copy of the information will also be available for viewing at City Hall. Mayor Rieker asked the citizens who have the dates the areas were flooded to please provide that information to City Manager Brown.

Mayor Pro Tem Milliron stated the City should push for an RFP to explore what we do not know which is the entire lower system. Mayor Pro Tem Milliron stated that he has walked the area and knows that there are three receptacles dumping out in the back of properties, there is a topography issue that is like a funnel dropping into the plume, and you have the pipe system that really affects things. Mayor Pro Tem Milliron stated he is also curious on the county side where they have done some of the development over the last 10-12 years, some of the infrastructure changes they have been done on Covington Highway, he feels it has put some additional pressure points on one of the receptacles that is flowing into one of the resident's property. Mayor Pro Tem Milliron stated that the City does not have enough information to go out and spend a million dollars and that is why he would push for an RFP to get the study done.

Commissioner Giager stated he would like to review the study information more before he makes any type of decision. Commissioner Giager does agree with Mayor Pro Tem Milliron that the City needs to find out more about what is below.

Commissioner Lee stated that his concern is as it relates to DeKalb County obviously this is an area where some of the water flows from Avondale resident properties and perhaps some flows from unincorporated DeKalb County property. Commissioner Lee's first impression is that it doesn't seem that the county has any interest in doing anything about it or helping us figure out what is going on. Commissioner Lee stated that he would like to see what the City could do from a legal standpoint to divert some of this water.

City Manager Brown stated that the close off is more of a State issue.

Commissioner Lee stated that he is concerned that the county does not pay enough attention to Avondale Estates since we are small community, especially with our neighbor next door. Commissioner Lee stated that these are large bills to fix these problems and if the county is not going to help us with some of the solution he would like for the City to find out on our own where we can take this.

Mayor Rieker stated that what he is hearing is that the board would like to get another scope on the next piece, to look down below there. Mayor Rieker asked that the board take a look at the maps and talk about where the next area of study should be because the City might do better by doing all of it at once or some of it. Mayor Rieker stated that the City needs to work with GDOT to see if the pipe can be moved. Mayor Rieker asked City Manager Brown to bring back to the board where the next scope should be done down below.

Item No. 4

Avondale Estates Business Association Update (AEBA)

Bonnie Kallenberg, President of the Avondale Business Association distributed promotional cards to the board on upcoming events (June 5<sup>th</sup> Movie @ Willis Park and June 11-13 Art-B-Que) and Ms. Kallenberg also presented a general promotional card about the businesses that they distribute outside of Avondale to businesses to market Avondale Estates. Ms. Kallenberg noted that the AEBA is getting ready to turn 2 years old and they are very excited. Ms. Kallenberg noted that they have between 28 and 45 members and businesses can start joining again in June. Ms. Kallenberg stated that they are hoping that the movie concert series brings people from all around. Ms. Kallenberg noted that the movie will start at 8pm and they will know what the movie is by the end of the week. Ms. Kallenberg noted that the AEBA has online voting for the movie and she encouraged the board to vote. Ms. Kallenberg noted that the AEBA has some recyclable bags ordered and they are going to give out 100 to the first 100 families and they will put in business promotional items and noted that if the City has something they would like to put in the bag they will put that in to.

City Manager Brown will get the information to Ms. Kallenberg.

Ms. Kallenberg stated that depending on how well the bags do, they will do the same thing for Art-B-Que at the AEBA booth and the City can put something in for those bags as well. Ms. Kallenberg noted that Bob Means is writing a bimonthly article for the newsletter about the AEBA activities. Ms. Kallenberg thanked City Clerk Owens for helping them with the newsletter articles. Ms. Kallenberg stated that it is her understanding that the City is going to go down before the movie event and make sure the lawn is mowed and everything is neat and tidy at the park. Ms. Kallenberg stated they will also need extra trash receptacles and Orkin is coming to spray to help with the mosquitoes and they are a sponsor as well, along with Arborguard. Ms. Kallenberg thanked Cordelle Rolle who designed the promotional cards, Mr. Rolle is also Vice Chair of the AEBA.

City Manager Brown stated that he would make sure everything was done at the park and the extra receptacles provided.

Mayor Rieker thanked the AEBA for what they are doing to promote the City.

Break: 7:25 p.m.

Resume: 7:35 p.m.

Item No. 4 Historic Preservation Commission/Architectural Review Board – Board Appointment

City Manager Brown noted that the Historic Preservation/Architectural Review Board is recommending David Sacks to fill their open board position, Mr. Sacks is a landscape architect and that is what the board was wanting for the open position.

Mayor Rieker acknowledged Mr. Sacks who was in attendance at the meeting and the board thanked him for wanting to serve on the Historic Preservation Commissioner/Architectural Review Board.

It was the consensus of the board to move forward with the recommendation of David Sacks and put this item on the agenda for Monday.

Item No. 5 Storm Erosion Ordinance

City Manager Brown read the ordinance. City Manager Brown noted that the ordinance had not been updated in five years.

It was the consensus of the board to move forward with the three readings.

Mayor Rieker asked that the ordinance be placed on the website.

Item No. 7 Noise Ordinance

City Manager Brown noted that the BOMC asked for a review of the current noise ordinance. City Manager Brown noted that City staff did extensive research and decided not to recommend a sound level meter but they did make adjustments to the current ordinance to help with the understanding of some of the definitions and to help with some of the enforcement of the ordinance. City Manager Brown noted in researching the sound level meter, the reason the City did not go down that route is, the history of calls that have come into the City and the cost. City Manager Brown explained the breakdown in the cost.

The board reviewed the revised ordinance. It was a consensus of the board that the ordinance does need new language.

Mayor Rieker asked that two commissioners be appointed to edit the document. Mayor Pro Tem Milliron and Commissioner Giager will work on new language for the ordinance and bring back an edited document to the board.

## Item No. 8 Resolution for Street Vendor for Art-B-Que

City Manager Brown noted that the Avondale Estates Cultural Foundation, Inc. has requested to sell food at the Art-B-Que and for the food vendor not having to get a business license or pay occupational tax the BOMC can grant an exemption through a resolution, Section 14-55.13.

Commissioner Giager asked what liabilities the City has by giving this exemption.

City Manager Brown stated none and it is the organizations responsibilities to get the required health permits from either the county or the state.

Mayor Rieker stated that they have event insurance as well and asked that this resolution be moved to the Monday meeting.

## Item No. 9 Inconsistent Provisions Concerning Alcohol in the City Code

City Manager Brown stated that after speaking to two potential new businesses in the City, one a possible liquor store and the other a specialty beer and wine store and in looking at the code and the zoning ordinance, City Manager Brown noted that there were some discrepancies so he sent it to the City Attorney review. City Manager Brown noted that the board has received the comments from the City Attorney. City Manager Brown stated that we are to the point where we need to clean up the City Code or clean up the zoning ordinance depending on which way the board wants to go.

The board discussed each of the sections in question.

It was the consensus of the board to do the following: 1) take out Section 3-9 which prohibits any sign "promoting the sale or consumption of alcoholic beverages.", 2) Section 3-71 and 3-91, Sale for Consumption on Premises, it was the consensus of the board to change the zoning ordinance so it will not allow bars in the City, and 3) Section 3-146, Retail Sale of Beer & Wine would allow a package store and/or specialty wine/beer shop.

## Item No. 10 Century Update and Maple Street Village Project

City Manager Brown stated since about 3:00 p.m. today he has been on and off the phone with Ted Sandler, the attorney for Century who is sort of the spokesperson for Century since they do not have anyone in Georgia for that and he stated that Charlie Boscarino told him that Century had finished its economic analysis with the bank and they are planning now to do the full project. City Manager Brown stated that Century believes there is a market for in town housing in Avondale Estates and the related retail development so Century is now moving forward with the plans and financing for the project that is outlined in the development agreement. City Manager Brown stated that they realize that there are financial obligations that they have mainly with three partners, one with the City and two other business owners here in the City that they intend to

address them as quickly as possible. City Manager Brown stated that they are going to give more detailed updates and project timeframes within 90 days.

Mayor Pro Tem Milliron stated this is great news for the City however he did circulate information to the board about the Maple Street Project, although it is good news he feels the City still should be prepared to address issues should something change. Mayor Pro Tem Milliron spoke about the project in Marietta, he asked a few questions that went to the City Attorney and the reply from the attorney was in the boards packet and basically just like the noise ordinance, our existing ordinances lack teeth. Mayor Pro Tem Milliron stated that the City lacks the enforcement to have Century either finish the project or have it torn down and he would like the board to move forward on some type of ordinance to have the teeth for this or any other future project so we are not left with a building partially completed.

Commissioner Giager stated that he hopes something happens but the City needs to have a document that Century signs of their intent that would penalize them if they don't because this may be another ploy to buy 90 days. Commissioner Giager feels there should be some type of document put in place that would tie them in because the development agreement did not mean anything to them. Commissioner Giager stated that maybe they could place a bond for whatever amount that says something like "we will break ground at least by this date."

Mayor Rieker stated he believes there is language in the existing document.

City Manager Brown stated that once they start on the project they cannot stop, there are three different bonds the City has.

Mayor Pro Tem Milliron stated that over the last two weeks, every business that he was aware of that has had a contract with Century he has visited and talked to the entities. Mayor Pro Tem Milliron stated that it is his understanding that those businesses have contracts in play and those contracts have deadlines (June 30<sup>th</sup>) and some of those have extended the deadline but they have to financially adhere to the contracts and he knows and should those contracts be voided there is no way the development would happen therefore, Century knows they have a timetable. Mayor Pro Tem Milliron stated if those contracts are null and void then he has no faith that those projects would ever get started. Mayor Pro Tem Milliron stated that he has urged the board in the past to let them make the next move.

Commissioner Lee asked for clarification from Mayor Pro Tem Milliron regarding the contract deadline. Commissioner Lee feels that the 90 days is just buying more time and 90 days has a lot of things associated it with it such as bankruptcy because you have to have 90 days before filing personal or corporate bankruptcy and it all back dates to that. Commissioner Lee spoke about the development agreement. Commissioner Lee feels this is just prolonging things.

## Item No. 11                      Public Comment

Lyda Steadman, 3118 Majestic Circle stated that the development agreement has expired and she spoke about the agreement. Ms. Steadman asked if the board was going to sit down with Century and have then re-sign a development agreement and make it specific and if there needs to be provisions put in to say “if you start something and don’t finish it then you have to tear it down.” Ms. Steadman stated that she would also like the board to consider if there is an agenda item such as the stormwater presentation tonight that the board have a separate meeting or do the meeting items first and then have presentations after the meeting items.

Mayor Rieker stated he does not think the development agreement has an expiration date, they are in default of the development agreement.

Sandra Varian, 3259 Wiltshire Drive spoke about the upkeep of the Century properties and them owing the City money and she agrees that something needs to be put in writing for this developer to either complete the project or move on because our residents have been played around with for 5 years now and she is tired of seeing the empty buildings and nothing being done. Ms. Varian also agreed with Ms. Steadman about having long presentations such as the stormwater in a separate meeting. Ms. Varian spoke about the noise ordinance.

Jonathan Belcher, Owner of Rays Original, 32B N. Avondale Road spoke about his contract with Century and how he would like to see the project completed.

Parke Kallenberg, 1035 Lakeshore Drive stated that when we talk about the development it is not just about their piece of the puzzle it is the entire City. Mr. Kallenberg stated that they do have a June 30<sup>th</sup> contract deadline with Century and frankly if they don’t meet it he is not sure how they will respond to that. Mr. Kallenberg spoke about their financial drain due to the non-development.

Phil Feibish, 3230 Kensington Road stated that he had some new neighbors to move in and they stated that the deciding factor for them moving to Avondale was the Museum School and that is the best thing he has heard in months that someone was moving to Avondale because of the quality of education.

Dennis Burns, 3256 Wynn Drive spoke about the City not allowing ice cream trucks in Avondale because of the noise ordinance.

Mayor Pro Tem Milliron stated that we regulate mobile businesses and a ice cream truck is mobile business and the noise ordinance is part of it because we still get ice cream trucks in our City playing the music.

Lyda Steadman, 3118 Majestic Circle stated how pleased she is about the hiring of a City Planner.

Parke Kallenberg, 1035 Lakeshore Drive stated that he can give the board three or four cities that have working noise ordinances. Mr. Kallenberg also noted that a beer and wine retailer has appeal.

Item No. 12

Adjournment

There being no further business, a motion to adjourn at 8:46 p.m. was made by Mayor Pro Tem Milliron, seconded by Commissioner Giager; passed with all ayes (4-0).

Approved this 28<sup>th</sup> day of June, 2010

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Ed Rieker, Mayor

ATTEST:

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Juliette Sims-Owens, City Clerk