

CITY OF JOHNS CREEK  
COUNCIL MEETING  
January 9, 2012 @ 7:00pm

The Mayor and Council of the City of Johns Creek held a monthly meeting on Monday, January 9, 2012. The meeting was held at 7:00pm in the City Hall Council Chambers located at 12000 Findley Road, Suite 300 in Johns Creek, Georgia.

City Clerk Joan Jones administered the Oath of Office to Council Member Ivan Figueroa and Council Member-Elect Brad Raffensperger.

COUNCIL PRESENT:                   Post 1-Randall Johnson - **Absent**  
  Post 2-Brad Raffensperger  
  Post 3-Karen Richardson  
  Post 4-Ivan Figueroa  
  Post 5-Kelly Stewart  
  Post 6-Bev Miller - **Absent**  
  Mayor Mike Bodker

STAFF PRESENT:                   City Clerk Joan Jones  
  City Manager Kachmar  
  City Attorney Bill Riley

**PLEDGE OF ALLEGIANCE:** Led by Eagle Scouts Alexander Burger, Troop 27, and Robert Mitchell from Troop 629 and Scouts Ryan and Justin Williams and Henry Casnocho from Troop 2000.

**OPENING REMARKS:** Mayor Bodker welcomed everyone back from the holidays and asked those in attendance for the zoning hearings to please exercise proper decorum during the presentations. He welcomed newly elected Council Member Brad Raffensperger and again thanked Georgia Power for their efforts to restore power during the outage on December 12, City Manager Kachmar and staff for their efforts to keep City services functioning. Mayor Bodker commented this was the first day of the 2012 legislative session and encouraged citizens to stay informed with the activities of their legislators and to express their views on policy decisions. He remarked citizens may sign up to receive the City's electronic newsletters to get the latest City news and events. Mayor Bodker recognized Don Mairose, who is retiring from his position on the Board of Zoning Appeals and thanked him for his years of service to the City. In closing, the Mayor invited all to attend the *State of the City* Address on February 3<sup>rd</sup>, 7:30am at the Atlanta Athletic Club.

**MINUTES:** Council Member Figueroa motioned, seconded by Council Member Richardson to approve the December 19, 2011 Work Session Summary and Council Meeting Minutes as presented. There being no discussion, the motion passed unanimously.

**MEETING AGENDA APPROVED:** Council Member Richardson motioned, seconded by Council Member Stewart to approve the meeting agenda as presented. There being no discussion, the motion passed unanimously and the agenda was approved.

**PUBLIC COMMENT:** Mark Endres addressed Council and suggested they should vote to approve all the zoning cases on tonight's meeting agenda, as any other action would infringe on the owners property rights. He read a prepared statement in support of this position, citing historical views and opinions.

**CONSENT AGENDA:** Council Member Figueroa motioned, seconded by Council Member Richardson to approve the Consent Agenda, which included- **ACTION ITEM-** Approve Privileged Resolutions for Eagle Scout Robert C. Mitchell of Troop 629 and Alexander Waters Burger of Troop 27; **ACTION ITEM** - Approve Task Order #1 for American Engineers Inc. for the Design of Sidewalk Segments on Douglas Road, Jones Bridge Road, Barnwell Road, Medlock Bridge Road and Haynes Bridge Road; **ACTION ITEM** Approve Task Order #2 for Southeastern Engineering Inc. for Sidewalk Segments on Findley Road, Abbotts Bridge Road and Medlock Bridge Road; **ACTION ITEM-** Approve Task Order #3 for Development Planning & Engineering, Inc. to Design Sidewalk Segments on Johns Creek Parkway, Lakefield Drive, Bell Road and Medlock Bridge Road. There being no discussion, the motion passed unanimously and the Consent Agenda was approved.

**ANNOUNCEMENTS:** City Clerk Jones announced the following upcoming meetings:

- *Tuesday, 1/10-@ 7:00pm Planning Commission Meeting cancelled; CVB re-scheduled to Tuesday, 1/17 @ 10:00am*
- *Monday, 1/16 — City Offices Closed for the MLK Holiday*
- *Tuesday 1/17 @ 7:00pm –BZA*
- *Monday, 1/30 — Council Work Session at 5:00pm followed by 7:00pm City Council Meeting*

**REPORTS & PRESENTATIONS:** Council Member Figueroa announced the new *Student Leadership Johns Creek* program, a byproduct of Leadership Johns Creek. The program will target High School sophomores and juniors and guide them on the principles to become future leaders. Applications are being accepted now through March as the program will be launched this fall and include 32 students selected from four high schools—Northview, Chattahoochee, Johns Creek and Centennial. The program may be extended to include other schools in the future.

Council Member Figueroa read and presented the following Privileged Resolution recognizing Eagle Scout Robert C Mitchell of Troop 629:

*The City of Johns Creek recognizes Robert C. Mitchell of Troop 629 on obtaining the rank of Eagle. Whereas Eagle Scout Mitchell performed his community service project by designing a fence and gate to enclose the Creek Hunting Lodge area at the Autrey Mill Nature Preserve; and Whereas Eagle Scout Mitchell and his team of volunteers contributed over 150 hours of community service in order to complete the project, thereby helping to preserve the historical and cultural significance of this area for the enrichment of visitors for years to come. His leadership, perseverance and commitment are just a few of the attributes gained through the scouting program. The Mayor and Council of the City of Johns Creek hereby recognize and applaud Eagle Scout Robert C. Mitchell and wish him well in all his future endeavors.*

Council Member Figueroa read the following Privileged Resolution recognizing Eagle Scout Alexander Waters Burger of Troop 27:

*The City of Johns Creek congratulates Alexander Waters Burger of Troop 27 on successfully completing all the rank requirements for Eagle. Whereas, Eagle Scout Burger completed his Eagle Project by constructing five park benches at the Johns Creek Christian Church; and Whereas Eagle Scout Burger's project provides a place for parents and caregivers to sit while children enjoy the playground areas, it is an opportunity to recognize the contributions scouting brings to our community along with the positive impact it has on our youth. The Mayor and Council of the City of Johns Creek recognize and applaud Eagle Scout Alexander Waters Burger and wish him well in all his future endeavors.*

Mayor Bodker recognized Scouts Ryan and Justin Williams and Henry Casnocho from Troop 2000 attending the meeting to work on their Citizenship in the Community Badges.

The Mayor commented on the new flood plain maps recently adopted by FEMA and deferred to City Manager Kachmar who mentioned the City will host a Flood Map Workshop given by FEMA and DNR to discuss the properties affected by the map changes and the impact this may have on their home insurance rates. Notices were mailed out inviting 800 properties owners to attend the meeting on Wednesday, January 18<sup>th</sup>, beginning at 6:00pm.

### **OLD BUSINESS:**

**ZONING CASE RZ11-007 & VS 11-007 LENITY GROUP, LLC:** A Public Hearing and consideration of Ordinance 2011-12-25 for Zoning Case RZ11-007 & VC 11-007-1 Lenity Group, LLC - 6300 Block of Hospital Parkway- O-I Conditional to A-L Conditional – Allow a 124 unit retirement community with a concurrent variance to reduce the parking from 155 to 79 spaces was deferred by City Council at the November 7, 2011 Meeting. As of December 27, 2011, the applicant has requested another deferral. Planning and Zoning Kirouac addressed Council and stated the applicant has requested a deferral until the January 30<sup>th</sup> Council Meeting due to issues between the applicant and the seller of the property.

Mayor Bodker asked if deferring until January 30<sup>th</sup> would afford the applicant sufficient time to resolve the outstanding issues. Mr. Kirouac deferred to the applicant's representative. Mr. Robert Moore responded to Mayor Bodker and commented drainage and access easements concerns are being addressed and the applicant has anticipated having these resolved by the next Council Meeting. Council Member Richardson motioned, seconded by Council Member Raffensperger to defer RZ 11-007 & VC 11-007-1 until the January 30<sup>th</sup> Council Meeting. There being no further discussion the motion passed and the case was deferred.

**CHARTER COMMISSION NOMINEE FROM COUNCIL MEMBER STEWART:** Council Member Stewart motioned, seconded by Council Member Figueroa to approve Resolution 2012-01-01 Appointing John Buckett as the Nominee of Council Member Stewart to the Charter Commission of the City of Johns Creek. There being no discussion, the motion passed unanimously. ***(RESOLUTION 2012-01-01)***

### **NEW BUSINESS:**

**ZONING CASE SUP 11-003 - ST. BRIGID CATHOLIC CHURCH:** A Public Hearing and consideration of Ordinance 2011-12-28 for SUP 11-003 - St. Brigid Catholic Church 3300–3400 Block of Old Alabama Road and the 9800 Block of Brumbelow Road – to Allow an Addition to the Existing Church Building (33,000 SF), a New Church Building (24,000 SF), add 1.28 Acres to the Overall Church Campus and Allow a Curb Cut onto Brumbelow Road was held.

Planning and Zoning Administrator Justin Kirouac informed Council St. Brigid's is seeking a Special Use Permit to expand the current church building by adding a new structure and providing a new access road to Brumbelow Road. He explained staff has reviewed the request and recommended approval with conditions and after a review and public hearing, the Planning Commission also recommended approval with conditions.

City Clerk Jones read the procedures for the zoning Public Hearing.

Mayor Bodker opened the Public Hearing for Ordinance 2011-12-28 for SUP 11-003 - St. Brigid Catholic Church 3300–3400 Block of Old Alabama Road and the 9800 Block of Brumbelow Road – to Allow an Addition to the Existing Church Building (33,000 SF), a New Church Building (24,000 SF), add 1.28 Acres

to the Overall Church Campus and Allow a Curb Cut onto Brumbelow Road and asked for those wishing to speak in support of the application.

Woody Galloway spoke on behalf of the applicant, reviewing the Special permit request to add 33,000 Sq. ft. to the existing main church building, add 1.28 acres off Brumbelow Road to the parcel in order to accommodate the addition of a new 24,000 sq. ft. building to be developed in the future and provide an access road to Brumbelow. Mr. Galloway introduced Monsignor David Tally who briefly acknowledged members of the congregation who were present tonight. Mr. Galloway explained meetings have been held with the community and opposition to the project included two issues; first, the proposed Brumbelow Road access, to which he responded, the property being acquired to provide access for the church already has access to Brumbelow Road, closer to the intersection than access point proposed by the church, and secondly, objections to the deficiency in the 300 ft. required distance of the driveway entrance from the intersection. He stated meeting the 300 ft. requirement is not feasible due to the location of the rectory and noted staff reviewed the access plan and found no objections; additionally a traffic engineer was enlisted to design the access plan and help with intersection improvements. He reserved the remainder of his time for rebuttal.

As there was no one else wishing to speak in support of the application, Mayor Bodker called for those speaking in opposition.

David McKay, addressed Council, indicating he was speaking both as a representative for the JCCA and as a homeowner. As a representative of the JCCA, he reported there were two HOAs on Brumbelow Road, Queensbury and Hartridge which voiced opposition to this project. Mr. McKay mentioned he lives in Hartridge and does not oppose the internal site expansion but does oppose the Brumbelow Rd. access and cited the following: 1) Council denied a similar access request in 2009; 2) Staff statements in support of the application are flawed; and 3) Brumbelow Rd. access will increase traffic. Mr. McKay cited a 2009 zoning case in which he claims additional access to Brumbelow Rd. was denied and commented that staff statements supporting noncompliance of the 300ft driveway distance was flawed, highlighting a PowerPoint showing traffic patterns while providing additional comments on the effects the Brumbelow access would have on traffic flow at the Old Alabama Rd. intersection.

During rebuttal, Mr. Galloway introduced Traffic Engineer, Geoffrey Warr of A & R Engineering, who stated he performed a traffic study to assess how the Brumbelow access road would impact traffic flow. He provided a graphic illustration to show how the additional access and proposed intersection improvements would provide alternative options to those attending the church, easing congestion, and improving traffic flow overall. Mr. Galloway also responded to comments by Mr. McKay, clarifying there was no access denial in 2009, the request was for curb cuts and the church worked with staff to address issues; he also mentioned currently there is only one access to and from the Church, on Old Alabama and should there be a problem on this road, a second point of access is necessary. He reiterated the new access and proposed intersection enhancements will improve the traffic patterns. As the time expired, Mayor Bodker closed the public hearing.

During discussion, Council Member Richardson and Mayor Bodker asked Public Works Director Tom Black to clarify the traffic flow, safety, and the 300 ft. required distance between intersection and the driveway. Mr. Black commented the flow would be enhanced with the additional means of ingress and egress and the language requiring the distance allows flexibility in its application; Council Member Figueroa asked Mr. Kirouac to clarify the 2009 decision. Mr. Kirouac replied there was no request for additional access on Brumbelow, therefore no denial; there was a condition prohibiting the access in conjunction with the specific site conditions of the 2009 application, however through the purchase of the additional parcel the site conditions have changed and current conditions would permit the additional access point. Mayor Bodker asked Fire Chief Hogan to comment on emergency access to the site, Chief Hogan explained he has not specifically inspected the site, Mr. Galloway responded the additional egress would add to the

safety of the site. The Mayor also inquired on the use for the additional building to which Mr. Galloway responded it would be used for youth activities and enable more efficient scheduling of church related activities.

Council Member Figueroa motioned, seconded by Council Member Stewart to approved Ordinance 2011-12-28 subject to the following findings of facts, 1) It will a reduce traffic off Old Alabama Road; 2) Provide additional site accessibility for public safety and 3) remove one curb cut off Brumbelow Road and subject to staff and planning commission recommendations as follows:

1. Restrict the use of the subject property to:
  - a. a one story private school with a maximum of 578 students and grades Pre-K through 8th at a maximum of 75,000 square feet
  - b. 2 story church at a maximum of 85,000 square feet
  - c. 3 story church building at a maximum of 24,000 square feet
  - d. One, existing single family residence.
  - e. Two, unlighted outdoor recreational fields for exclusive use by the adjoining school and church.
2. New buildings/additions shall be consistent with existing building and shall conform to the Community Standards.
3. The site shall be developed in general conformance with the site plan submitted to the Community Development Department dated November 21, 2011, with changes to the site plan to meet these conditions.
4. Provide a 50-foot buffer with 10-foot improvement setback adjacent to the Preston Oaks subdivision. Provide a 25-foot wide buffer and 10-foot improvement setback adjacent to all other residences.
5. Provide a 60-foot landscape strip and a 20-foot landscape strip adjacent to Old Alabama Road as shown on site plan submitted to the Community Development Department dated September 18, 2011; all other road frontages shall follow the current zoning ordinance for required landscape strips.
6. Provide a 10-foot landscape strip adjacent to O-I zoned property.
7. Reduce the setback for a recreation field next to a residentially zoned or developed property from 100 feet to 60 feet.
8. A final plat combining all church property shall be submitted and approved prior to the issuance of a building permit.
9. Owner/developer shall dedicate along the entire property frontage on Old Alabama Road right-of-way as necessary for the GDOT Project STP-9408(3) (P.I. No 751650), Old Alabama Road widening between Holcomb Bridge Road and Jones Bridge Road prior to the issuance of a Land Disturbance Permit as approved by the City of Johns Creek Director of Public Works.
10. The owner/developer shall dedicate at no cost to the City of Johns Creek along the entire property frontage on Brumbelow Road at least 11 feet of right-of-way from back of curb or 1 foot from the edge of sidewalk, whichever is greater, of all abutting road improvements prior to the issuance of a Land Disturbance Permit as approved by the City of Johns Creek Director of Public Works.
11. No additional curb cuts shall be allowed along the entire property frontage of Old Alabama Road.
12. Owner/developer shall be allowed one (1) non-residential drive and one (1) residential drive on Brumbelow Road or as may be required by the City of Johns Creek Traffic Engineer. Design and location shall be subject to review and approval of the Johns Creek Traffic Engineer.
13. The owner/developer shall upgrade deceleration lane at west curb cut on Old Alabama Road and shall provide a deceleration lane at the non-residential entrance on Brumbelow Road or as may be required by the City of Johns Creek Traffic Engineer.

As there was no further discussion, the motion passed unanimously. (**ORDINANCE 2011-12-28**)

Mayor Bodker called for a two-minute recess as attendees were leaving the council chambers. Mayor Bodker called the meeting back to order.

Council Member Raffensperger recused himself from discussion regarding Rezoning Case 11-009 and VC-11-009 1 & 2 as he has previously commented on this case publicly during his campaign.

**REZONING CASE RZ-11-009 & VC-11-009-1 & 2 – RACETRAC PETROLEUM** – A Public Hearing and Consideration of Ordinance 2011-12-29 for RZ-11-009 & VC-11-009-1 & 2 – Racetrac Petroleum - 10600 Block of Medlock Bridge Road and 10600 Block of Parsons Road – O-I Conditional & R-4 Conditional to C-I Conditional – Allow a convenience store with fuel pumps and pocket park with concurrent variances to reduce landscape strip for utility box and allow sidewalk to encroach into buffer was considered. Planning and Zoning Administrator Justin Kirouac informed Council of the applicant’s request to defer the case until the January 30<sup>th</sup> Council Meeting. Applicant representative Sean MacLauren addressed Council stating the reason for the deferment is to allow additional time to address concerns raised by the community. Mayor Bodker inquired if two weeks was sufficient time to address the issues and Mr. MacLauren replied it was. Council Member Richardson motioned, seconded by Council Member Figueroa to defer Ordinance 2011-12-29 until the January 30<sup>th</sup> Council Meeting. During discussion, Council Member Figueroa and Mayor Bodker discussed their concerns on keeping citizens informed about the deferral requests so they may elect to attend or not attend the meeting and granting a deferral is at the discretion of Council. As there was no further discussion Mayor Bodker called the question and the motion to defer RZ11-009 and VC 11-009 1&2 until January 30<sup>th</sup> passed unanimously.

Council Member Raffensperger returned to the dais for the remainder of the meeting.

**REZONING CASE RZ-11-010 & VC-11-010-1 HEADSTART MONTESSORI:** A Public Hearing and consideration of Ordinance 2011-12-30 for RZ -11-010 & VC-11-010-1 Headstart Montessori - 11700 Block of Jones Bridge Road and 11700 Block of Addison Way – CUP Conditional to C-1 Conditional – Allow an outdoor play area at an existing commercial development with a concurrent variance to maintain buffers, setbacks, landscape strips, parking spaces, and commercial structures as currently exist was held.

Planning and Zoning Administrator Justin Kirouac informed Council the applicant Montessori Head start is requesting to rezone 1.23 acre of land from CUP to C-1 to allow a fenced in outdoor play area and seeking a concurrent variance to maintain the characteristics of the building, including the landscapes strips, buffers, setbacks, etc. Staff reviewed the request and recommended approval and after the holding a public hearing, the Planning Commission also recommended approval.

Mayor Bodker opened the Public Hearing for ordinance 2011-12-30 for RZ -11-010 & VC-11-010-1 Headstart Montessori - 11700 Block of Jones Bridge Road and 11700 Block of Addison Way – CUP Conditional to C-1 Conditional – Allow an outdoor play area at an existing commercial development with a concurrent variance to maintain buffers, setbacks, landscape strips, parking spaces, and commercial structures as currently exist and asked for all those wishing to speak in support of the application. Applicant Ms. Kishore Thadani addressed Council on the re-zoning request which she stated is to facilitate creating an outdoor playground for her head start program. As there was no one else wishing to speak for or against the application, Mayor Bodker closed the public hearing. Council Member Figueroa asked for clarification on the type of fence that would be installed and on the distinction of change from CUP to C-1; Mr. Kirouac clarified the fence would conform to community standards and the C1 use is more consistent with a commercial use. Council Member Richardson clarified staff and planning commission recommendations for approval. Council Member Richardson motioned, seconded by Council Member Figueroa to approve Ordinance 2011-12-30 subject to the Planning Commission and Staff recommendations as follows.

1. Restrict the use of the property to retail, service commercial and/or office and accessory uses at a maximum area of 9,300 gross square feet, with an additional 2,350 square feet reserved for the use of an outdoor play area. Convenience stores with gas pumps, fast food restaurants with drive-thru, liquor package stores, entities that exclusively provide check cashing, pawn shops, coin operated laundries, massage parlors, discount retail shops, and billboards, shall be prohibited.
2. The site shall be developed in general accordance with the site plan submitted to the Community Development Department, dated September 6, 2011.
3. Fencing of outdoor play area shall meet State requirements and fence style. Proposed fence shall require review and approval of the Director of Community Development Department.
4. No additional curb cuts shall be allowed along the entire property frontage on Addison Way and Jones Bridge Road.
5. The minimum building setbacks for the development are as follows (VC-11-010-1): a) Front = 50 feet; b) Side = 15 feet, and c) Rear = 40 feet
6. The 25-foot landscape strip adjacent to Addison Way may be reduced to 10 feet (VC-11-010-1).
7. A 10-foot landscape strip shall be maintained along the east and south property line adjacent to multi-family (VC-11-010-1). All existing vegetation shall remain within the 10-foot landscape strip.

There being no further discussion, the motion passed unanimously. (**ORDINANCE 2011-12-30**)

**AUTHORIZE LEASE FOR POLICE SUBSTATION:** Assistant City Attorney Scott Hastey reviewed the terms of the lease agreement for a Police Substation on Old Alabama Road, which is for five years and automatically renews annually unless changed by Council. Attorney Hastey noted there were three changes made following the December 19th Work Session discussion, which included placement and installation of security devices and clarification on the commencement of the lease agreement and taking possession of the premises. Council Member Raffensperger asked if the security issues could impact the agreement. Mayor Bodker added he hoped legal would be able to work out details without affecting the agreement. Attorney Hastey indicated the issues related to the security devices could be resolved. Council Member Richardson motioned, seconded by Council Member Raffensperger to approve the Action Item authorizing the lease agreement as amended for the Police Substation. There being no further discussion, the motion passed unanimously. (**ACTION ITEM**)

**OTHER BUSINESS:** No Other Business.

**PUBLIC COMMENT:** Mark Endres addressed the council and completed his thoughts on the founding fathers and restrictions they put in place regarding individual property rights. He asked council to consider this when they are address zoning hearings.

**MAYOR'S COMMENT:** Mayor Bodker thanked everyone for attending and voiced his appreciation for the public's patience regarding the rescheduling of our first council meeting due to power outages.

**EXECUTIVE SESSION:** No Executive Session.

**ADJOURNMENT:** There being no further business, Council Member Raffensperger motioned, seconded by Council Member Figueroa to adjourn the meeting. The motion carried unanimously and the meeting was adjourned.

Approved by:

Attested by:

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Michael E. Bodker, Mayor

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Joan C. Jones, City Clerk