

Regular Meeting of the Sandy Springs City Council was held on Tuesday, November 17, 2009, at 6:00 p.m., Mayor Eva Galambos presiding.

Mayor Galambos introduced and welcomed the new City Grants Writer, Eden Freeman.

INVOCATION

Pastor Nate Bednar with Metropolitan Baptist Church offered the invocation

PLEDGE OF ALLEGIANCE

Mayor Eva Galambos lead the Pledge of Allegiance.

CALL TO ORDER

Mayor Galambos called the meeting to order at 6:04 p.m.

ROLL CALL AND GENERAL ANNOUNCEMENTS

City Clerk, Michael Casey reminded everyone to silence cell phones and pagers at this time. Additionally, those wishing to provide public comments, either during a public hearing or during the Public Comment section of the meeting, are required to complete a public comment card. The cards are located at the back counter and need to be turned in to the Clerk.

City Clerk Casey called the roll.

Mayor: Mayor Eva Galambos

Councilmembers: Councilmember Doug MacGinnitie, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery present. Councilmember Ashley Jenkins absent.

(Agenda Item No. 09-279)

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Paul moved to approve the Meeting Agenda. Councilmember Fries seconded the motion. The motion carried unanimously.

CONSENT AGENDA

Confirmation of Administrative Modifications

(Agenda Item No. 09-280)

1. **AM09-002** - 8850 Dunwoody Place, *Applicant: Jerry Bisig*, To Delete Condition 3.i of Z84-0069 Regarding Limitations on Signage
(*Nancy Leathers, Community Development Director*)

(Agenda Item No. 09-281)

2. **AM09-003** - 6450 Barfield Road, *Applicant: Germaine Thurman*, To Modify Condition 2 of U80-0063 to Allow for a New Site Plan Showing the Reconfiguration of the Parking Area to Eliminate the Northern Curb-cut on Barfield Road and the Addition of a New Sidewalk Along the South Eastern Driveway
(*Nancy Leathers, Community Development Director*)

(Agenda Item No. 09-282)

3. **AM09-004** - 35 Ridgemere Trace, *Applicant: Steve and Peggy Brown*, To Modify Condition 3.c of Z81-0133 to Reduce the Minimum Rear Yard Setback from 35 to 3 feet for a Deck Extension
(Nancy Leathers, Community Development Director)

(Agenda Item No. 09-283)

4. **AM09-005** - 1229 Pitts Road, *Applicant: Abbas Heidari*, To Modify Condition 3.j of Z03- to Allow a Detention Pond to Encroach into the Required Thirty (30) foot Greenbelt
(Nancy Leathers, Community Development Director)

(Agenda Item No. 09-284)

5. **AM09-006** - 7355 Roswell Road (SR 9), *Applicant: CVS*, To Modify Condition 2.b of RZ08-029 to Amend the Approved Architectural Elevation and Color Scheme, Specifically Related to Proposed Window Shutters
(Nancy Leathers, Community Development Director)

(Agenda Item No. 09-285)

6. **AM09-007** - 975 Johnson Ferry Road, *Applicant: Peacock Partnership*, To Modify Condition 6 of Z80-0146 to Allow Emergency Generators to Encroach into the Required Buffer Adjacent to Georgia 400
(Nancy Leathers, Community Development Director)

(Agenda Item No. 09-286)

7. **AM09-008** - 5430 Glenridge Drive, *Applicant: Joseph Boveri*, To Delete Conditions 3.h and 3.i of Z83-0113 Regarding Limitations on Signage
(Nancy Leathers, Community Development Director)

Motion and Vote: Councilmember Fries moved to approve the Consent Agenda. Councilmember Paul seconded the motion. The motion carried unanimously.

PRESENTATIONS

1. Recognition of Veterans

Mayor Eva Galambos recognized all Veterans in attendance by giving them a small American Flag.

2. Recognition of Mary Catherine St. Louis

Mayor Eva Galambos presented Mary Catherine St. Louis with a small framed copy of the oil painting she completed. Mrs. St. Louis did an oil painting of a dogwood tree for the City of Sandy Springs to present as a gift to our sister city in China.

Mayor Galambos stated that the City is thankful for the Coca-Cola Company, CH2M HILL, and UPS for sponsoring their trip to China. She wanted everyone to be aware that no City funds are being used for the trip to China. The reason for the trip is to open communications and make friends with China for economic development, with hopes that when it is time for China to invest some of their money, they will invest where they have made friends. The sister city is immediately adjacent to Shanghai. It is an ancient city, but it has a very modern sea port and a lot of modern industry. Mayor Galambos stated that she thinks it will be a good match for the City of Sandy Springs. It has a population of about 640,000 people.

3. Developers of Excellence – David Schmid

Director of Community Development Nancy Leathers stated that this information is being brought forward to recognize a number of developers that have exceeded the City's requirements on a regular basis without any reminders from the City Staff. Even with the tough economic times, there are a lot of developers that are doing a quality job of maintaining their properties and taking care of their projects. Nancy introduced David Schmid to present the information.

Environmental Compliance Officer David Schmid highlighted the site stabilization and maintenance of the following communities. He presented each developer with a plaque.

- The Enclave at Jett Ferry developed by John Wieland
- Old Cobblestone developed by Bill Grant Homes
- The Highlands of Sandy Springs developed by Jolly Development
- Villas at Brandon Mill developed by Tuscan Corporation
- Trillium Subdivision developed by Capital Design Group
- Country Hills Estates developed by Southern Gentry Development

PUBLIC HEARINGS

City Clerk Michael Casey reminded everyone of the rules for the public hearings.

(Agenda Item No. 09-287)

1. **ZM09-008/CV09-013** - 7081 Canonbury Place, *Applicant: Dan & Anna Castro*, To Modify Condition 3.c of Petition Z03-0182 to Permit Encroachment into the Required Thirty (30) foot Rear/Perimeter Setback to Allow for a Pool and Associated Items, with a Concurrent Variance

Assistant Director of Planning & Zoning Patrice Ruffin stated ZM09-008/CV09-013 is a modification application for 7081 Canonbury Place, which is a single parcel in the Villas at Brandon Mill. The applicant is requesting a modification to condition 3.c and a concurrent variance to allow for a pool in the 30 foot perimeter yard setback. Typically pools are allowed up to ten feet from the property line and staff is recommending approval conditional for the modification and the concurrent variance request.

Dan Castro, 7081 Canonbury Place, stated they want to construct their pool with a setback of 10 feet instead of 30 feet, and he has his pool expert available for specific questions.

Mayor Eva Galambos called for public comments in support of or opposition to the application. There were no comments from the public.

Councilmember Dianne Fries asked what type of retaining wall is proposed at the ten foot line.

Peter Velasquez, Neptune Pools, stated the backside is a retaining wall, but is basically the wall of the pool and it will be made of concrete and number three and four rebar. The coloration of the backside is being worked out between the homeowner and the people who live behind them.

Councilmember Fries asked the height of the retaining wall.

Mr. Velasquez stated the height is flush with the ground; and 35 feet over at the other side of the pool, where the ground is dropping, it is seven feet.

Councilmember Fries asked if they are in negotiations on what the material of the retaining wall will be.

Mr. Velasquez stated that they are not in negotiations for the material of the wall, but for the color of the wall. The plan was to do the backside of the wall in a beige color to match the house, but the homeowner is discussing with the neighbors behind them if the color should be something other than beige.

Councilmember Fries stated she does have an issue with the pool encroachment, but she does have a problem with the finishing of it. She asked Director of Community Development Nancy Leathers if the concrete wall of a pool is treated differently, because it is not a true retaining wall.

Community Development Director Nancy Leathers stated that the concrete wall of a pool is treated differently, but the City can request that they have a finished surface.

Councilmember Fries asked if there was difficulty with having a finished surface.

Mr. Velasquez stated that they did not plan to leave the wall concrete, but plan to have a stucco finish or something else.

Motion and Vote: Councilmember Meinzen McEnery moved to approve 09-287, ZM09-008/CV09-013, 7081 Canonbury Place, Applicant: Dan & Anna Castro, To Modify Condition 3.c of Petition Z03-0182 to Permit Encroachment into the Required Thirty (30) foot Rear/Perimeter Setback to Allow for a Pool and Associated Items, with a Concurrent Variance. Councilmember Fries seconded the motion. The motion carried unanimously.

Ordinance No. 2009-11-57

(Agenda Item No. 09-288)

2. Approval of Alcoholic Beverage License Application for Steel Canyon Golf Club at 460 Morgan Falls Rd Sandy Springs, GA 30350. Applicant is Ramon J. Munoz for Consumption on Premises of Malt Beverage

Director of Operations Wayne Wright stated the application for Steel Canyon Golf Club reflects a change of ownership. The staff has reviewed the application and found all the administrative requirements have been met and it has been properly advertised for the public hearing tonight. The staff recommends approval.

Mayor Eva Galambos called for public comments in support of or opposition to the application. There were no comments from the public.

Motion and Vote: Councilmember Fries moved to approve agenda item no. 09-287, an Alcoholic Beverage License Application for Steel Canyon Golf Club at 460 Morgan Falls Rd Sandy Springs, GA 30350. Applicant is Ramon J. Munoz for Consumption on Premises of Malt Beverage. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

(Agenda Item No. 09-289)

3. Approval of Alcoholic Beverage License Application for Phillips 66 at 5345 Roswell Rd Sandy Springs, GA 30342. Applicant is Stacy D. Hall for Retail Package Wine and Malt Beverage

Director of Operations Wayne Wright stated the application for Phillips 66 reflects a change of ownership. The staff has reviewed the application and found all the administrative requirements have been met and it has been properly advertised for the public hearing tonight. The staff recommends approval.

Mayor Eva Galambos called for public comments in support of or opposition to the application. There were no comments from the public.

Motion and Vote: Councilmember DeJulio moved to approve agenda item no. 09-289, an Alcoholic Beverage License Application for Phillips 66 at 5345 Roswell Rd Sandy Springs, GA 30342. Applicant is

Stacy D. Hall for Retail Package Wine and Malt Beverage. Councilmember Meizen McEnery seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

(Agenda Item No. 09-290)

1. U09-004/U09-005/U09-006/CV09-007 - Holy Innocents' Episcopal Church, School & Daycare, Request for a Use Permit to revise the current development and uses previously approved

Assistant Director of Planning & Zoning Patrice Ruffin stated this is an update on the application for Holy Innocents. The application was deferred back to the Planning Commission, because the applicant did not properly post their sign on the property. They will go back to the Planning Commission on Thursday and then come before Council on December 15, 2009.

NEW BUSINESS

(Agenda Item No. 09-291)

1. Acceptance of Driveway Easements, Temporary Construction Easement Rights, Permanent Drainage Easements and Right-of-Way for the Windsor Parkway (Roswell to High Point) Sidewalk Project (T-0020)

Manager of Transportation Planning Garrin Coleman stated this is the final item on the right-of-way for this project and staff is asking Council for acceptance.

Motion and Vote: Councilmember DeJulio moved to approve agenda item no. 09-291, Acceptance of Driveway Easements, Temporary Construction Easement Rights, Permanent Drainage Easements and Right-of-Way for the Windsor Parkway (Roswell to High Point) Sidewalk Project (T-0020). Councilmember Paul seconded the motion. The motion carried unanimously.

Resolution No. 2009-11-80

(Agenda Item No. 09-292)

2. Authorize the City of Sandy Springs to Partner with the Georgia Department of Transportation and the Perimeter Community Improvement District to Sponsor Construction of the Hammond Drive Sidewalk Project (PI No. 753300)

Manager of Transportation Planning Garrin Coleman stated this agenda item is for the Hammond Drive Sidewalk Project from the City limits to GA400 on both sides of the road and it will be a five foot wide sidewalk, developed by PCID's.

Councilmember Tibby DeJulio asked if most of that area currently has sidewalk.

Manager of Transportation Planning Coleman responded this project is for gap fill in and connectivity throughout.

Motion and Vote: Councilmember Paul moved to approve agenda item 09-292, to authorize the City of Sandy Springs to Partner with the Georgia Department of Transportation and the Perimeter Community Improvement District to Sponsor Construction of the Hammond Drive Sidewalk Project (PI No. 753300). Councilmember DeJulio seconded the motion. The motion carried unanimously.

Resolution No. 2009-11-81

(Agenda Item No. 09-293)

3. Consideration of Approval of a Contract Modification to Construct Dunwoody Club Drive at Spalding Drive Intersection Improvements Project (T-0016)

Capital Program Director William Martin stated the contract modification exceeds 10% of the original contract amount of \$266,000 and the total changes are just over \$69,000. The reasons for the changes are the City's agreement with Davis Academy regarding construction of a retaining wall and driveway entrance, which occurred after receipt of the contractor's bids; changes to the contractor's scope of paving work to support adjacent capital paving efforts in the intersection; and field changes required to adjust work for previously unidentified utilities.

Motion and Vote: Councilmember MacGinnitie moved to approve agenda item no. 09-293, Approval of a Contract Modification to Construct Dunwoody Club Drive at Spalding Drive Intersection Improvements Project (T-0016). Councilmember Paul seconded the motion. The motion carried unanimously.

Resolution No. 2009-11-82

(Agenda Item No. 09-294)

4. Approval of a Consultant Design Contract for Engineering Support with Arcadis for a Short Term Roadway Improvement Project on the Roswell Road Bridge over I-285 and Authorization for the City Manager to Execute Contract Documents

Manager of Transportation Planning Garrin Coleman stated this item was presented to Council a few months ago regarding the widening of the Roswell Road Bridge. There have been several meetings with GDOT to develop the scope and Arcadis was asked to give a bid. Staff is asking Council to approve the contract. Earmark funds are being used so the City will only be responsible for 20% of the actual contract amount.

Councilmember Doug MacGinnitie asked why the contract is being single sourced verses being bid out.

Manager of Transportation Planning Coleman stated Arcadis has extensive knowledge of the traffic data for the underpass and has already collected a significant amount of the data. They are also working for GDOT on the Revitalize I-285 project.

Councilmember MacGinnitie asked if there is a cost impact for not bidding this contract.

Manager of Transportation Planning Garrin Coleman stated the cost is competitive.

Motion and Vote: Councilmember MacGinnitie moved to approve agenda item no. 09-294, the Approval of a Consultant Design Contract for Engineering Support with Arcadis for a Short Term Roadway Improvement Project on the Roswell Road Bridge over I-285 and Authorization for the City Manager to Execute Contract Documents. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Resolution No. 2009-11-83

(Agenda Item No. 09-295)

5. Reappointment of Marlise Landeck to Post 7 on the Design Review Board for a Four-Year Term Commencing Dec. 1, 2009

Motion and Vote: Councilmember Fries moved to approve agenda item no. 09-295, Reappointment of Marlise Landeck to Post 7 on the Design Review Board for a Four-Year Term Commencing Dec. 1, 2009. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Resolution No. 2009-11-84

(Agenda Item No. 09-296)

6. Resolution to approve and authorize the Mayor to enter into an Intergovernmental Agreement between the City of Sandy Springs, Georgia and the Georgia Commission on the Holocaust for Lease of the Anne Frank Center Exhibition

City Attorney Wendell Willard stated the Council previously approved a letter of intent which outlined the obligations between the City and the Holocaust Commission. There have been some financial modifications to that contract and staff is presenting the full IGA for review. The lease with Mimm's Enterprises is part of the financial recognition under this IGA that the City may have some financial responsibility if the Exhibit has to be moved.

Councilmember Dianne Fries stated private funds are being raised to support the Anne Frank Exhibit and the City is acting as a backstop in case something happens. She stated that to date \$95,000 has already been raised. The one item of concern is the liability of the City for \$50,000 a year for employees' salaries, if the City ends the contract. Mayor and Council do not feel like they would want to end the contract early and feel comfortable moving forward with the IGA.

Councilmember Doug MacGinnitie asked if the City is obligated to write a check for \$50,000 each year along with being a backstop and providing security.

City Attorney Willard stated that the City is obligated on paper for the security, but funds are being raised to cover that. If the funds are not raised, then yes, the City will be responsible for that.

Councilmember Fries stated those funds will come out of the non-profit line item, which is already budgeted for this year and next year.

Councilmember MacGinnitie asked if the City is writing a check every year for \$50,000.

City Attorney Willard answered yes; there is a commitment to write a check for \$50,000 every year which covers the personnel to run the operation.

Councilmember Fries stated the \$50,000, which has already been raised, goes directly to the Commission at the first of the year to pay the salaries for the personnel. It is cheaper for the Commission to pay the salaries, because the state then pays the health benefits instead of the City taking on that responsibility. The funds come out of the non-profit and go directly into the City's line item account to cover the \$50,000.

Councilmember Karen Meinzen McEnerny stated for the last three years our City has allocated \$200,000 for the non-profits organizations in our City to apply for a grant to support their organizations. She asked if that fund being utilized for the Anne Frank Exhibit.

Councilmember Fries stated if there were no more donated funds left, then yes, the non-profit funds would be used.

Motion and Vote: Councilmember Fries moved to approve agenda item no. 09-296, a Resolution to approve and authorize the Mayor to enter into an Intergovernmental Agreement between the City of Sandy Springs, Georgia and the Georgia Commission on the Holocaust for Lease of the Anne Frank Center Exhibition. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

Resolution No. 2009-11-85

(Agenda Item No. 09-297)

7. Proposed amendments to the Alcoholic Beverage Ordinance so as to create a new and independent Section 6-72 to be entitled Hearings; to strike existing Section 6-71(b) currently covering hearings; to provide that the City Council shall consider all matters relating to licenses; to resolve a conflict by having the City Manager consider all disputed matters relating to pouring permits; to specify the number of days in which complete applications shall be heard; and to provide for Council's decision to be entered in the minutes

City Attorney Wendell Willard said this item includes some tweaking of the provisions on appeals and hearings within the alcoholic beverage ordinance. There was some confusion in the ordinance language concerning the initial application for a license and the potential for a license holder to do something wrong and be in violation of their license. Staff also created a new section that deals strictly with the appeals and hearing process.

Mayor Eva Galambos asked if this is a housekeeping provision.

City Attorney Willard answered yes.

Motion and Vote: Councilmember Meinzen McEnery moved to approve agenda item 09-297, Proposed amendments to the Alcoholic Beverage Ordinance so as to create a new and independent Section 6-72 to be entitled Hearings; to strike existing Section 6-71(b) currently covering hearings; to provide that the City Council shall consider all matters relating to licenses; to resolve a conflict by having the City Manager consider all disputed matters relating to pouring permits; to specify the number of days in which complete applications shall be heard; and to provide for Council's decision to be entered in the minutes. Councilmember Paul seconded the motion. The motion carried unanimously.

Ordinance No. 2009-11-55

(Agenda Item No. 09-298)

8. Proposed amendments to the Alcoholic Beverage Ordinance Section 6-163 entitled Pouring Permits so as to set forth specific standards for issuance and revocation

City Attorney Wendell Willard stated this change is to eliminate confusion in the standards for issuance and revocation of a person's pouring permit.

Motion and Vote: Councilmember Fries moved to approve agenda item 09-298, amendments to the Alcoholic Beverage Ordinance Section 6-163 entitled Pouring Permits so as to set forth specific standards for issuance and revocation. Councilmember Paul seconded the motion. The motion carried unanimously.

Ordinance No. 2009-11-56

(Agenda Item No. 09-299)

9. Consider Award Recommendation for Tennis Center Contract

Director of Recreation and Parks Ronnie Young stated the Tennis Management RFP procurement has been completed. He thanked those staff and volunteers involved in the panel used for the RFP. He stated the company that was responsive, desirable, qualified and won the RFP was Windward Tennis Management. He briefly went over the process stating there were eight responders to the RFP. During the first round of evaluations and scoring, there were five staff evaluators and the field was reduced from eight responders to five. The second round included five staff evaluators and two representatives from Sandy Springs Tennis Association and the top five bidders were invited in to present their RFP and answer questions. The top three bidders from this round were asked back to answer specific issues, discuss the financial package, staff to be on sight at the center daily, and general operation of a public facility. Windward Tennis Management was a unanimous first choice with the three staff evaluators at that level. Staff is asking Council approval to begin negotiations for a one year contract to begin January 1, 2010, with Windward Tennis Management.

Councilmember Tibby DeJulio stated he received the information on Sunday night and it was tough to review in one day. He stated after reviewing the packet, the company that came out on top has never run a public facility and the Sandy Springs facility is public. He stated he didn't understand how Council and Staff was to review all the materials in such a short amount of time and how the City could turn over

operations of their public tennis center to someone that has no experience with running a public facility. He asked staff to explain the logic behind choosing someone who has never run a public facility.

Director of Recreation and Parks Young stated in his personal opinion, operating a public tennis center versus a private tennis center is no different. People are people and you understand what your duties are and you understand your clientele.

Councilmember DeJulio stated he played tennis at both types of facilities and there is a major difference in them. He stated he expected a different level of service at the private facility. He asked why the City of Sandy Springs should be a guinea pig for a company that has never run a public tennis center.

Councilmember Rusty Paul stated that same comment could be made about CH2MHILL.

Councilmember DeJulio stated that is true, but there was no one else in that business at that time. With the Tennis Center Management, staff has two other proposals where one has been in the business for nineteen years and the other for over twenty-three years. He asked again why staff would choose the company that had never been in the business of public Tennis Management.

Councilmember Doug MacGinnitie asked Director Young to explain the thought process behind the changes in the evaluation group size and those on the panel in choosing Windward Tennis Management.

Director of Recreation and Parks Young stated staff followed the procurement procedures. The five initial members scored the first round. Based on how close the scores are grouped, a number is chosen to come and do a presentation for the panel. At that time, the discussion from the procurement department was that Tennis Players in the community should be involved. The request went to the local Sandy Springs Tennis Association to participate and they sent two volunteers in that scored at that second level.

Councilmember MacGinnitie wanted to clarify his understanding that if the process had ended at the second level, the winner would have been Operation Tennis, Windward was second and FTS was third.

Director of Recreation and Parks Young verified that the information was correct. At that time, they brought in the three top scores from that round, cut the evaluation team to three, graded the vendors one through three, and all three of those evaluations were identical.

Councilmember MacGinnitie asked if that lead to the rankings of Windward first, Operation Tennis second, and Fulton Tennis third.

Director of Recreation and Parks Young verified yes.

Councilmember MacGinnitie asked if something was missed in the process.

Director of Recreation and Parks Young stated personally he does not think the staff missed anything. Any one of the top three vendors can run a tennis center acceptable to the public. He felt the procurement process was fair and properly done and Windward scored the highest.

Councilmember DeJulio asked on which evaluation Windward scored the highest, because on the first evaluation that vendor scored fourth, and on the second evaluation that vendor scored second, and all of a sudden on the third evaluation that vendor scored first.

Mayor Eva Galambos stated it takes some familiarity with playing tennis and being in the sport attending tournaments to help do these evaluations. She asked why Manney Guillen, vice president of the US Tennis Association, was not involved in the last rating, since he has been around this community and has known everything and everybody in the Tennis world. She stated the procurement committee knows

procurement, but does not know about tennis. She pointed out on page 18 of the proposal from Fulton Tennis Center there is a list of who's been involved and what type of teams they have, but there is not a similar list in the other proposals. The Windward proposal only states what they will do, but there is not a history of doing it. She stated she would rather go with a proven product. She feels that the procurement process failed to take into account some of the facts and the process needs to be repeated.

Councilmember Karen Meinzen McEnerny stated what stood out to her was that some of the people selected by the City to be on the panel didn't have much knowledge of the tennis world and running a tennis center.

Councilmember Paul asked how the panel was chosen.

Director of Recreation and Parks Young stated he and procurement chose the evaluators. For two years those evaluators have evaluated almost all of the projects Parks and Recreation has been involved in from contracts for construction to contracts for professional services. The City would have to go outside the City staff, and not have a staff recommendation, in order to use only people knowledgeable in tennis to score this RFP.

Councilmember Paul asked the City Manager if staff followed the City's' procurement processes as outlined in the selection process of this vendor.

City Manager John McDonough answered yes, to his knowledge the process was followed and he has had the Assistant City Attorney, Cecil McLendon, intimately involved in the process to be sure it stayed on track throughout. It has been a very in-depth and involved process. The people that have participated on these review panels have been consistent for a number of years. He stated he has confidence in the integrity of the process

Councilmember Paul asked the City Manager if he has any questions about this process whatsoever based on his professional judgment.

City Manager McDonough responded he does not have any questions about the process as presented this evening.

Assistant City Attorney Cecil McLendon stated this procurement was handled in a fair and evenhanded manor. The evaluating committee is one that has been used before and from review of this process, this is an evaluation process that came up with a fair and balanced determination at the end of the day. He stated he would stand behind the process to its completion.

Councilmember Paul stated the head of the Recreation Department, the City Manager, and the City's Legal Departments all believe it was a fair and equal process. This is a standard process that every governmental body uses to evaluate contracts. Based on the judgment of our staff, Council has one of two conclusions to draw. One, staff does not know what they are doing, or two, staff is making the best recommendation to Council that they can. It is Council's responsibility to accept it or reject it.

Mayor Galambos asked Director Young why at the end of the process the two members of the committee with the tennis background were removed from the panel.

Director of Recreation and Parks Young answered there was a lot of discussion as to whether to bring an outside source onto the panel. He did not have an answer as to why those participants were eliminated in the last round.

City Manager McDonough requested that this item be tabled, so staff could do further evaluations to answers the Mayor and Council's questions.

Councilmember Meinzen McEnery stated she has been involved in procurement at a federal government level regarding the National Institute of Health and there are significant practices that they follow to get outside scientists, doctors, etc. to convene to analyze a certain medical grant that they may need. So it is common sense to make sure to get the most qualified people to analyze the proposals. When the City is analyzing a particular product, staff needs to be sure to use evaluators that are qualified and familiar with the practices. In the second round staff used qualified evaluators which should have been used in the final round.

Councilmember Paul objected to the characterization of the City Staff.

Councilmember Meinzen McEnery stated she was not criticizing the Staff.

Motion: Councilmember DeJulio moved to extend the current management's contract for six months during which time staff can conduct a re-evaluation and use the same evaluators throughout the process.

City Manager McDonough stated the contract could be extended on a month to month basis, the Council could table the item until December, and at that time staff could come back with a recommendation.

Mayor Galambos asked for a second to Councilmember DeJulio's motion.

Second to Motion: Councilmember Meinzen McEnery seconded the motion for discussion.

Councilmember Dianne Fries stated she is stunned. She realizes there may be people that are disappointed with the decision, but the City has a process that has been in place for four years that has served the City well and it bothers her that the Council is questioning the integrity of this process.

Councilmember DeJulio stated the process was not fair, because the evaluators changed in each round of the process. He stated if the same evaluators were used each time, he would not have issues with the outcome.

Mayor Galambos asked Councilmember Fries if Council has ever received 200 emails saying the decision that was made was wrong in any previous procurement recommendation.

Councilmember Fries answered no, but this is about the integrity of our process.

Councilmember MacGinnitie stated the City has also never RFP'ed anyone that has been a part of the community for nineteen years, which is an important consideration. He stated that Council should be concerned about the process. Sandy Springs is a City of RFP's. The City's entire system is based on that process.

Councilmember Meinzen McEnery stated her concerns with this process have nothing to do with 200 emails. She stated the City needs to look at the procurement practice to make sure the most qualified people are analyzing the RFP's.

Councilmember Paul stated the Council has worked extremely hard to make sure politics and opinions don't play a part in the decision process. The City has a process that is fair and a staff and City Manager there to make sure that our policies are followed. When there is a unanimous agreement of three departments of the City that this was done properly, and Council continues to question that process, we have stepped on a very slippery slope. He asked if Council is going to tell the three departments that they have misunderstood the City's policies unanimously, that they are lying to us, or they are incompetent. He stated he doesn't think Council wants to infer in any sense that they are incompetent. For that reason, Council needs to either say staff did not complete the process correctly or find something wrong, because Staff has unanimously stated the process was done right.

Councilmember Meinzen McEnerny suggested that staff look at the experience and background of the evaluators at each stage and then determine if outside expertise is needed to review this type of proposal.

Mayor Galambos stated that is exactly the point that she was going to make. Perhaps the City's procurement process needs to be improved for specialized bids or projects. She stated the City has to make sure the procurement committee includes people who are specialists and know something about what is being bid on.

Councilmember Paul asked Mayor Galambos, hypothetically, if Council does not accept Windward for the reasons outlined by Councilmember DeJulio, would it be her motion to then go with the bidder who came in second.

Mayor Galambos stated her motion would be to go back and redo this process.

Councilmember Paul asked why if the process was done according to procedure.

Mayor Galambos stated she questioned the process, because the procurement committee did not have the expertise to review this area.

Councilmember DeJulio stated during the first round there were five evaluators. During the second round, three additional evaluators were added and one of the original evaluators was dropped. At the final evaluation, only three evaluators completed the evaluations. The process needs to be consistent by keeping the same evaluators throughout the entire process.

Councilmember Fries asked City Manager McDonough if he could shed any light on that process.

Councilmember Paul asked City Manager McDonough if this is unusual for procurement.

City Manager McDonough stated he has given his recommendation, the Council has heard from the legal staff, and the Recreation Director. He reiterated that this is a matter for Council. He stated that staff had made its recommendation.

Councilmember DeJulio restated his motion to extend the current management's contract for six months during which time staff can complete the process again using the same evaluators all the way through the process.

City Attorney Wendell Willard stated that two things needed to be done. He suggested tabling the contract for thirty days. In the meantime, let the staff resolve the issues about what goes forward for a period of time appropriate for the current management.

Mayor Galambos stated they could not table this for thirty days.

City Attorney Willard clarified his statement. He stated Council should table the item for thirty days for staff to come back with a new procedure, so staff can also check with the current party running the tennis center to be sure they are able and willing to go forward past December 31, 2009.

Councilmember DeJulio withdrew his original motion and submitted a substitute motion.

Motion and Vote: Councilmember DeJulio moved to table agenda item no. 09-299, Consideration of Award Recommendation for Tennis Center Contract for 30 days to give City Staff the chance to talk with the current Sandy Springs Tennis Center management to make sure they can continue to manage this facility until we redo this entire procedure. Councilmember Meinzen McEnerny seconded the motion. The motion carried 3-2, with Councilmember Fries and Councilmember Paul voting in opposition.

City Attorney Willard stated they we can come back with an amended contract that shows this was resolved.

(Agenda Item No. 09-300)

10. Approval of Adult Establishment Work Permit Fee

City Attorney Wendell Willard stated the City adopted Fulton County's fee for the work permit which was \$350, and there is no way to justify that amount. Staff had a study done that shows the potential cost the City incurs is \$57.46. Staff is asking the fee for the work permit be \$55.

Motion and Vote: Councilmember Meinzen McEnery moved to approve agenda item no. 09-300, a Resolution for Approval of Adult Establishment Work Permit Fee. Councilmember MacGinnitie seconded the motion. The motion carried unanimously.

Resolution No. 2009-11-86

REPORTS AND PRESENTATIONS

- a) Mayor and Council Reports
- b) Staff Reports
 - i. Keep Georgia Beautiful Award to City – John McDonough

City Manager John McDonough reported the City was awarded a certificate of achievement for the City's community service work program. It was presented at a banquet at the Emory Conference Center on November 4, 2009. The City was honored in the community improvement category for improving, beautifying and preserving the quality of life in the Sandy Springs community. He congratulated the Mayor and presented her with the award.

City Manager John McDonough stated the communications staff has been recognized for winning a couple of awards: the Golden Flame Award for excellence in communications and also for an external single piece for the Sandy Springs Newcomer Guide.

Director of Public Works Tom Black stated the work at Johnson Ferry and Abernathy started on Sunday night and continued on Monday night, but was stopped because calls were being made to 911. Citizens have complained of sleep deprivation and children being unable to sleep. Staff met with DOT and it was concluded that the contract was very specific and there are no restrictions on when the work can be done. The work is done at night so that traffic is not impacted. Staff inquired how much it would cost if the work was done during the day. DOT stated just one area would cost an additional \$35,000, it would take twice as long, and it would cut the production in half.

Mayor Eva Galambos asked how long DOT plans to do night work.

Director of Public Works Black stated this portion of the work will take a couple of weeks, but for the next two years there will be different night work down to the other end of the project. All the paving, leveling, and utility work will be done at night.

Councilmember Tibby DeJulio asked what time does the DOT works.

Director of Public Works Black stated they start at 7 p.m. and work until 5 a.m.

Mayor Galambos asked if the major noise is from the tractors.

Director of Public Works Black stated some of the noise is from the tractors, but most of the complaints were about the trucks and a back-hoe. They had to cut down the grade for the new utility lines.

Mayor Galambos asked how many calls were received.

Director of Public Works Black stated approximately ten calls were received.

Councilmember Rusty Paul stated there is some pounding and noise going on, but at the same time if ten calls come in for night work, there will be ten times that amount of calls when traffic gets backed up during the day. He requested that he and Director of Public Works Black speak and try to come up with some ideas to handle the situation.

PUBLIC COMMENT

Mayor Galambos called for public comments.

Barbara Malone, 240 Colewood Way, stated she wanted to give an update on Epstein School. She stated it had been ten months since the school came before Council with their expansion plan and the ultimate withdrawal of their application. They stated on public record the evening of their withdrawal that they would have open and honest dialogue with the neighborhood association and homeowners. She has tried to reach out to them many times in hopes to move forward in a positive manner to resolve the negative impact the school has created for the neighborhood and homeowners. At the neighborhood's request, there were two meetings held this summer with no resolution. Any of the requests made to meet with the school board members have not been granted. At this time, the same issues still remain in the neighborhood. She stated for public record that the neighborhood has gone above and beyond trying to get meaningful dialogue with the school. At this time it appears the school does not place this as a priority. The unresolved issues continue on a daily basis. In the future should they apply to expand their campus in a manner not compatible with our neighborhood, she hopes Council will remember her comments.

Councilmember Rusty Paul asked Mrs. Malone if any progress has been made. He stated he had spoken to Trish Thompson who stated that some progress had been made.

Ms. Malone stated she requested in September to meet with the executive board, hoping to move beyond the animosity from both sides and to clear the slate and get some meaningful dialogue on what their hopes and aspirations were for their campus. She was hoping to inform them that the members love their neighborhood and they love the educational qualities of the school.

Councilmember Paul asked Mrs. Malone if it is her goal to have a meeting with the Board of Trustees.

Ms. Malone stated she is hoping to meet with their executive committee because the Board is 26 people.

Councilmember Paul stated he will see what he can do to help.

Andre Barbic, Fulton Tennis Services, wanted clarification on the memorandum dated November 12, 2009, posted on the City of Sandy Springs website as part the agenda. The memo is for the recommendation of approval of a new contract for provision of Tennis Center Operations at Sandy Springs Tennis Center. The memo briefly describes the process by which Windward Tennis Academy was given the recommendation. There is a cover sheet for the memorandum describing the agenda item which includes the approval and signature of both the City Manager and City Attorney. The memorandum itself is addressed to the City Manager. The memorandum shows it to be from Steve Rapson, the Assistant City Manager. Mr. Barbic stated his understanding is that Mr. Rapson is no longer the Assistant City Manager and is no longer employed by the City of Sandy Springs. He asked why the

communication of this proposal was communicated to the City Manager by someone who was not involved in the process, in terms of being at the interviews conducted by the evaluating committee.

Councilmember Dianne Fries stated that Steve Rapson is employed on a contract basis.

Mayor Eva Galambos stated there was no ulterior motive and it just shows the routing of the memorandum.

Mr. Barbic asked to clarify that Mr. Rapson was not involved.

Councilmember Fries stated that Mr. Rapson was involved. She stated that he was still the City's Finance Director and the Finance Director is very involved in the procurement process.

Mr. Barbic asked if Mr. Rapson was at any of the tennis interviews.

Councilmember Fries answered that Mr. Rapson was not at the interviews, but he was involved and aware of the process.

Mr. Barbic stated what was missing in the process was the input from the community. Council should take the emails and audience attendance as interest in the City of Sandy Springs. He stated at the beginning of the process Ivo Barbic was the person consulted as to how to draft the RFP. He stated that if the evaluation committee is going to the person currently running the Tennis Center for input, then it shows there should be some expertise from outside. He urges the Council to take into consideration the concerns of the community and the voices of the citizens of Sandy Springs. He stated he thinks change is okay when something is broken, but that is not the case today.

Councilmember Paul asked was it his assertion that Mr. Barbic was involved in the drafting of the RFP.

Mr. Barbic stated that there were people from the evaluation committee who did ask him things about the drafting of the RFP.

Steve Milano, 110 Roswell Farms Lane, stated he has some involvement in the Tennis industry on the local and national level and could provide the Council with a list of National Organizations that have local representatives from the USTA Southern Section and other organizations that can provide objective information. He stated if staff could show that the people who voted for the eventual winner in the first round were not moved to the second round and the people who voted for them in the second round were not moved to the third round, it would show that the process was not rigged.

Mary Ellen Wilkins, 6580 Williamson Drive, stated she has lived in Sandy Springs for forty-six years and lives directly across from the Tennis Center. She has played tennis at various centers for various teams. She stated the Tennis Center staff is like family. The courts are in better condition and cleaner since it has become the Sandy Springs Tennis Center.

Joan Marcinko, 430 Margate Drive, stated she has volunteered and worked for several different tennis associations. She spends a lot of her personal time at the tennis center and Mr. Barbic spends a lot of time for many different and wonderful opportunities in Sandy Springs.

Lee Myers, 8506 Long Beach Circle, stated she played tennis most of her life and was a teaching pro at the former North Fulton Tennis Center. She wants to show her support for the current operator of the Tennis Center. She stated that she has played at the Windward Tennis Center and it is a great facility, but she thinks they are not as community minded as the current facility operators.

Councilmember Tibby DeJulio asked her what is the difference between a Tennis Academy and Tennis program.

Ms. Myers stated an academy is actively seeking junior talent to come to the facility and you are heavily involved with training juniors and advancing their skills.

(Agenda Item No. 09-301)

EXECUTIVE SESSION

Motion and Vote: Councilmember DeJulio moved to enter Executive Session. Councilmember Fries seconded the motion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Paul, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive Session began at 8:13 p.m.

Motion and Vote: Councilmember DeJulio moved to Adjourn Executive Session. Councilmember Paul seconded the motion. The motion carried unanimously with Councilmember MacGinnitie, Councilmember Fries, Councilmember Paul, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive Session Adjourned at 8:46 p.m.

Councilmember Rusty Paul requested that the City Attorney explain the issue before Council.

City Attorney Wendell Willard stated staff is requesting Council initiate the filing of an application on the rezoning of the Lakeside Property at the intersections of Glenridge, I-285 and GA400, based on the presentation made during executive session with the information received from the Director of Community Development, Nancy Leathers.

Motion and Second Vote: Councilmember Paul moved to initiate the rezoning request for the Lakeside Property at the intersections of Glenridge, I-285 and GA400, per the City Attorney's recommendation. Councilmember Fries seconded the motion.

Resolution No. 2009-11-87

Councilmember Paul stated this rezoning request is a result of a number of factors, one of which is litigation. It doesn't determine the outcome. Council is going back through the process to review the rezoning. The community will have full input into the process. The Planning and Zoning Commission will have an opportunity to review it and bring recommendations to Council. The City Staff will also review those recommendations. All Council is doing is opening up the opportunity to find a mutually acceptable agreement, but if not, it doesn't bind the City to any particular outcome.

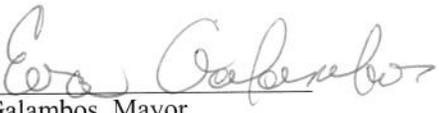
City Attorney Willard stated it has always been his recommendation that the City move in this manner when involved in litigation as opposed to working out a consent order. He prefers there be complete transparency with the Council and the citizens regarding zoning and not just taking a consent order and making changes.

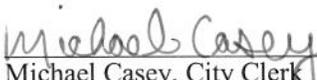
Vote on Motion: The motion carried unanimously.

(Agenda Item No. 09-302)

ADJOURNMENT

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Paul seconded the motion. The motion carried unanimously. The meeting adjourned at 8:49 p.m.


Eva Galambos, Mayor


Michael Casey, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

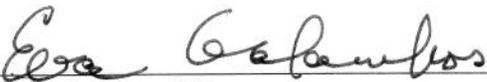
November 17, 2009

AFFIDAVIT FOR EXECUTIVE SESSION

Personally comes Eva Galambos, Mayor of the City of Sandy Springs, who on oath says that to the best of her knowledge and belief, on the 17th day of November, 2009, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved, pursuant to O.C.G.A. 50-14-2(1).

and that except for the foregoing, no portion of the closed meeting involved discussion, presentation, or action on any other matter.



Eva Galambos, Mayor

Sworn to and subscribed before me,
this 17TH day of NOVEMBER, 2009.



Notary public (SEAL)

