

**Regular Meeting of the Sandy Springs City Council was held on Tuesday, September 1, 2009, 6:00 p.m., Mayor Eva Galambos presiding.**

**INVOCATION**

Reverend Martha Sterne of Holy Innocents offered the invocation.

**CALL TO ORDER**

Mayor Galambos called the meeting to order at 6:00 p.m.

**ROLL CALL AND GENERAL ANNOUNCEMENTS**

**City Clerk Michael Casey** reminded everyone to silence their cell phones and pagers at this time. Additionally, those wishing to provide public comments, either during a public hearing or before the conclusion of the meeting under the Public Comment section, 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

**Councilmember's Present:** Councilmember Doug MacGinnitie, Councilmember Dianne Fries, Councilmember Rusty Paul, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery.

**PLEDGE OF ALLEGIANCE**

Mayor Galambos led the Pledge of Allegiance

(Agenda Item No. 09-212)

**APPROVAL OF MEETING AGENDA**

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

**CONSENT AGENDA**

(Agenda Item No. 09-213)

1. Meeting Minutes:
  - a. May 19, 2009 Regular Meeting
  - b. June 2, 2009 Regular Meeting & 1st Public Hearing of Budget
  - c. June 2, 2009 Work Session
  - d. June 9, 2009 2nd Public Hearing of Budget

(Michael Casey, City Clerk)

(Agenda Item No. 09-214)

2. Approval of an Ordinance Amending Chapter 58 of the City of Sandy Springs Code of Ordinances by Regulating Parking in Residential and Business Districts; Regulating Parking of Certain Vehicles; and for Other Purposes  

(Wendell Willard, City Attorney)

**Ordinance No. 2009-09-48**

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

**PRESENTATIONS**

There were no presentations at this meeting.

**PUBLIC HEARINGS**

**Alcoholic Beverage**

**(Agenda Item No. 09-215)**

1. Approval of Alcoholic Beverage License Application for American Pizza located at 5785 Roswell Rd., Sandy Springs, GA 30328. Applicant is George Fotos for Consumption on Premise Wine and Malt Beverage

**Wayne Wright, Director of Operations** stated the application for American Pizza is for a new license at this location. The staff has reviewed the applications 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 Galambos** called for public comments either for or against this application. There were no comments from the public.

**Motion and Vote:** Councilmember DeJulio moved to approve agenda item no. 09-215, the Alcoholic Beverage License Application for American Pizza at 5785 Roswell Rd., Sandy Springs, GA 30328. Applicant is George Fotos for Consumption on Premise Wine and Malt Beverage. Councilmember MacGinnitie seconded the motion. The motion carried unanimously.

**(Agenda Item No. 09-216)**

2. Approval of Alcoholic Beverage License Application for Blue Grotto located at 220 Sandy Springs Cir Ste 205, Sandy Springs, GA 30328. Applicant is Kun Wu for Consumption on Premise Wine, Malt Beverage and Distilled Spirits

**Wayne Wright, Director of Operations** stated the application for Blue Grotto is for consumption on the premises and reflects a change of ownership. The staff has reviewed the applications 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 Galambos** called for public comments either for or against this application. There were no comments from the public.

**Motion and Vote:** Councilmember Meinzen McEnery moved to approve agenda item no. 09-216, the Alcoholic Beverage License Application for Blue Grotto at 220 Sandy Springs Cir Ste 205, Sandy Springs, GA 30328. Applicant is Kun Wu for Consumption on Premise Wine, Malt Beverage and Distilled Spirits. Councilmember Paul seconded the motion. The motion carried unanimously.

**(Agenda Item No. 09-217)**

3. Approval of Alcoholic Beverage License Application for CVS Pharmacy #4504 located at 6330 Roswell Rd., Sandy Springs, GA 30328. Applicant is Terrance Duckworth for Retail Package Wine and Malt Beverage

**Wayne Wright, Director of Operations** stated this application for CVS Pharmacy #4504 is for a new business. 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 Galambos** called for public comments either for or against this application. There were no comments from the public.

**Motion and Vote:** Councilmember Fries moved to approve agenda item no. 09-217, the Alcoholic Beverage License Application for CVS Pharmacy #4504 at 6330 Roswell Rd Sandy Springs, GA 30328. Applicant is Terrance Duckworth for Retail Package Wine and Malt Beverage. Councilmember Paul seconded the motion. The motion was carried unanimously.

**(Agenda Item No. 09-218)**

4. Approval of Alcoholic Beverage License Application for John's Package Store located at 7227 Roswell Rd, Ste A, Sandy Springs, GA 30328. Applicant is Ramesh Panchal for Retail/Package Wine, Malt Beverage and Distilled Spirits

**Wayne Wright, Director of Operations** stated the application for John's Package Store reflects a change in 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 Galambos** called for public comments either for or against this application. There were no comments from the public.

**Motion and Vote:** Councilmember Jenkins moved to approve agenda item no. 09-218, the Alcoholic Beverage License Application for John's Package Store at 7227 Roswell Rd, Ste A, Sandy Springs, GA 30328. Applicant is Ramesh Panchal for Retail/Package Wine, Malt Beverage and Distilled Spirits. Councilmember DeJulio seconded the motion. The motion was carried unanimously.

**(Agenda Item No. 09-219)**

5. Approval of Alcoholic Beverage License Application for Sandy Springs Quick Stop located at 5700 Roswell Rd., Sandy Springs, GA 30342. Applicant is Ebrahim Akbarshahi for Retail Package Wine and Malt Beverage

**Wayne Wright, Director of Operations** stated the application for Sandy Springs Quick Stop 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 Galambos** called for public comments either for or against this application. There were no comments from the public.

**Motion and Vote:** Councilmember Meinzen McEnery moved to approve agenda item no. 09-219, the Alcoholic Beverage License Application for Sandy Springs Quick Stop at 5700 Roswell Rd Sandy

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Springs, GA 30342. Applicant is Ebrahim Akbarshahi for Retail Package Wine and Malt Beverage. Councilmember DeJulio seconded the motion. The motion was carried unanimously.

**(Agenda Item No. 09-220)**

6. Approval of Alcoholic Beverage License Application for the Westin Atlanta Perimeter North located at 7 Concourse Pkwy, Sandy Springs, GA 30328. Applicant is Robert Mercer for Consumption on Premise Wine, Malt Beverage and Distilled Spirits

**Wayne Wright, Director of Operations** stated the application for Westin Atlanta Perimeter North is for consumption on the premises and 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 Galambos** called for public comments either for or against this application. There were no comments from the public.

**Motion and Vote:** Councilmember DeJulio moved to approve agenda item no. 09-220, the Alcoholic Beverage License Application for The Westin Atlanta Perimeter North at 7 Concourse Pkwy Sandy Springs, GA 30328. Applicant is Robert Mercer for Consumption on Premise Wine, Malt Beverage and Distilled Spirits. Councilmember Fries seconded the motion. The motion carried unanimously.

**UNFINISHED BUSINESS**

There was no unfinished business for this meeting.

**NEW BUSINESS**

**(Agenda Item No. 09-221)**

1. Ordinance to Amend Chapter 54, Article V, by Adopting a New Ordinance to be Known as Section 54-127 of the City of Sandy Springs Code of Ordinances so as to Establish a Hearing and Appeal Process for Matters Relating to Business and Occupation Tax Certificates other than Suspension or Revocation

**City Attorney, Wendell Willard** stated staff is suggesting having a provision in our Business License Ordinance where there is an appeal process when someone is feeling aggrieved because of the amount of tax being assessed for the business license and occupation tax. The City has had several of these cases with one of them currently in litigation. What we feel is lacking is due process. This amendment will set up that procedure and have Council authorize, when necessary, a designee, which will be a Hearing Officer, to serve in that capacity on behalf of Council, if it wishes to do so.

**Councilmember Meinzen McEnerny** asked why Council would allow the due process to go before either the City Council or its designee. Why provide an option?

City Attorney Willard stated there is no one designated. From time to time Council can appoint someone as a Hearing Officer for that purpose, by specific named individual. If the time comes and there is to be an appeal, that will be brought to Council's attention with the recommendation to have someone designated as a Hearing Officer for that purpose.

**Motion and Vote:** Councilmember Paul moved to approve agenda item no. 09-221, Ordinance to Amend Chapter 54, Article V, by Adopting a New Ordinance to be known as Section 54-127 of the City of Sandy Springs Code of Ordinances so as to establish a Hearing and Appeal Process for Matters Relating to

Business and Occupation Tax Certificates other than Suspension or Revocation. Councilmember Fries seconded the motion. The motion carried unanimously.

**Ordinance No. 2009-09-46**

**(Agenda Item No. 09-222)**

2. Ordinance to Amend Chapter 54, Article V, Sec. 54-124 of the City of Sandy Springs Code of Ordinances so as to Specify the Means by which Notice Shall Be Given, the Scheduling of a Hearing; and the Manner of Appeal when Suspension or Revocation of an Occupation Tax Certificate is at Issue

**City Attorney, Wendell Willard** stated this amendment is to establish the due process procedures as to how the revocation of a license is to occur when a business is in violation of the ordinance.

**Motion and Vote:** Councilmember Paul moved to approve agenda item no. 09-222, Ordinance to Amend Chapter 54, Article V, Sec. 54-124 of the City of Sandy Springs Code of Ordinances so as to specify the Means by which Notice Shall Be Given, the Scheduling of a Hearing; and the Manner of Appeal when Suspension or Revocation of an Occupation Tax Certificate is at Issue. Councilmember Fries seconded the motion. The motion carried unanimously.

**Ordinance No. 2009-09-47**

**(Agenda Item No. 09-223)**

3. Exchange of Georgia Department of Transportation Abernathy Road Parcels for Johnson Ferry Road Parcel

**City Attorney, Wendell Willard** stated this is a very beneficial exchange. The City will receive parts of three parcels of the Abernathy Road project, which are the excess property of GDOT acquired as a part of the roadwork. There is no way for GDOT to donate the property to the City without a sale or an arm's length transaction. The City has some property that is part of our inventory, which is the parcel at the corner of Riverside Dr and Johnson Ferry, which is needed by GDOT. They need to have that as a part of a detention pond with the road construction work they are doing. After the construction is done and there is no further need for the property, they will return it to the City. This exchange will save the City close to three quarters of a million dollars.

**Motion and Vote:** Councilmember Paul moved to approve agenda item no. 09-223, the Exchange of Georgia Department of Transportation Abernathy Road Parcels for the Johnson Ferry Road Parcel. Councilmember Jenkins seconded the motion. The motion carried unanimously.

**(Agenda Item No. 09-224)**

4. Resolution to authorize the purchase of equipment to be leased to the Joint Public Safety and Judicial Facilities Authority for the Cities of Sandy Springs, Georgia and Johns Creek, Georgia d/b/a Chattahoochee River 9-1-1 Authority (the "Authority")

**City Attorney, Wendell Willard** stated IXP had planned to finance the equipment. As part of the acquisition, the bank was going to charge them 5% interest. Instead, the City will buy the equipment and lease it back to our Authority. The Authority is part of the transaction in loaning the use of the equipment through IXP. The Authority will pay the City in monthly installments with a 5% return on the City's money. The City puts the money up from our treasury funds but there is a better return than we can get from the bank. This is a good financial investment for the City and it also involves sales tax savings. The whole transaction covers the purchase of equipment and then a lease back.

**Motion and Second:** Councilmember Meinzen McEnery moved to approve agenda item no. 09-244, the Resolution to authorize the purchase of equipment to be leased to the Joint Public Safety and Judicial Facilities Authority for the Cities of Sandy Springs, Georgia and Johns Creek, Georgia d/b/a Chattahoochee River 9-1-1 Authority (the "Authority"). Councilmember Fries seconded the motion.

**Mayor Galambos** expressed great admiration to all of the various departments who cooperated with Johns Creek to pull off a good start of the 911. Everything went smoothly and she asked everyone to applaud them.

**Vote on the Motion:** The motion carried unanimously.  
**Resolution No. 2009-09-58**

**(Agenda Item No. 09-225)**

5. Resolution to authorize the execution and delivery of an equipment lease purchase agreement in connection with the equipping of the 9-1-1 Center established by the Joint Public Safety and Judicial Facilities Authority for the Cities of Sandy Springs, Georgia and Johns Creek, Georgia d/b/a Chattahoochee River 9-1-1 Authority (the "Authority")

**City Attorney, Wendell Willard** stated this is the second step of the process, which is the leasing of the equipment to our Authority to complete the transaction.

**Motion and Vote:** Councilmember DeJulio moved to approve agenda item no. 09-225, the Resolution to authorize the execution and delivery of an equipment lease purchase agreement in connection with the equipping of the 9-1-1 Center established by the Joint Public Safety and Judicial Facilities Authority for the Cities of Sandy Springs, Georgia and Johns Creek, Georgia d/b/a Chattahoochee River 9-1-1 Authority (the "Authority"). Councilmember Fries seconded the motion. The motion carried unanimously.

**Resolution No. 2009-09-59**

**(Agenda Item No. 09-226)**

6. A Resolution to Pursue a Friendship Relationship between the City of Sandy Springs and Taicang Cities

**Mayor Galambos** stated this is an expression of friendship with the City of Taicang, not yet a formal Sister-City Relationship. This will authorize us to sign a memorandum of agreement with Taicang, that we will be friends. Sandy Springs will then go through a bureaucratic procedure to become a Sister City in China. There will be a trade mission visit to China at a date to be determined. This will not be paid for by the City. We will be looking for sponsorships and the rest will be paid out of our own pockets.

**Motion and Vote:** Councilmember DeJulio moved to approve agenda item no. 09-226, a Resolution to Pursue a Friendship Relationship between the City of Sandy Springs and Taicang Cities. Councilmember Jenkins seconded the motion. The motion carried unanimously.

**Resolution No. 2009-09-60**

**REPORTS AND PRESENTATIONS**

- a. Mayor and Council Reports
  - i. Anne Frank Exhibit Property Lease

**Councilmember Fries** stated that there is a lease for the Anne Frank Exhibit Property that needs to be signed at no cost. Some language needs to be changed in regards to the City and she would like Council's support to turn this agreement over to the City Attorney to make those changes.

**Councilmember Meinzen McEnerney** questioned with their being no charge for the lease, who will be responsible for common areas, insurance, utilities?

Councilmember Fries stated Anne Frank will provide and be responsible for insurance. There is a \$1,000 cap on maintenance repairs for the air conditioner in a maintenance agreement.

**Motion and Vote:** Councilmember Fries moved to authorize the City Attorney to review and finalize the lease agreement and forward it to the Mayor for signing. Councilmember Jenkins seconded the motion. The motion carried unanimously. Copies of the current lease and revised lease will be forward to each Councilmember.

b. Staff Reports

**City Manager, John McDonough** took the opportunity to extend congratulations to everyone involved and reiterate the importance of the milestone that was achieved with the establishment of the 9-1-1 Communication Center. The Center went operational just before midnight last night. We are confident that the citizens of Sandy Springs and Johns Creek will see an improved level of service in that area.

i. Service Delivery Strategy Update – John McDonough

**City Manager, John McDonough** stated he and Wendell are close to concluding the first stage on the Service Delivery Strategy Update. They had their last meeting with Fulton County and we are at an impasse over four different service areas, with water at the top of the list. Everyone at that meeting did agree the next step in the process is mediation. We will be moving forward to mediation for those cities involved in the water issue. There will be a number of briefings coming to Council in the next few weeks and we will need Council's feedback. The Service Delivery Strategy is required to be completed by October 31<sup>st</sup> of this year. There is an opportunity to ask for a 90-day extension, but it has to be unanimous and there is at least one city that does not want to ask for an extension, because of some reservoir issues they are having in South Fulton. The other three service areas are wastewater, elections, and roads. The issue with elections is the cost was too high. The County did agree that they will go back and take another look to reduce the cost. The road issue is that Fulton County is spending general fund money for roads in particular areas of the county and we are all against that and have asked them to cease that practice.

ii. Voting Rights Act – Wendell Willard, City Attorney

**City Attorney, Wendell Willard** stated he and Councilmember MacGinnitie have had some discussions regarding the West Texas Water District case that was dealing with Section 5 of the Voting Rights Act, which went all the way to the US Supreme Court. The Supreme Court recognized there is ability under the law that should be recognized and exercised more by local governments, which will allow cities and counties to opt out where they can show that they do not bring about through their conduct anything in violation of the Voting Rights Act. Sandy Springs being a new city certainly has a clean slate. Therefore the City could, and should, be a City that is exempted from the Voting Rights Act. There is a process through the US Attorney's office to have that exemption applied. There are time lines in which they conduct an investigation, hold hearings, make a decision, and hopefully issue the exemption. There are attorneys who specialize in this area. City Attorney Willard has had conversations with local counsel about the prospect of the City of Sandy Springs doing this in order to give some recommendations to

Council in regards to cost. They can do this either on a fixed cost basis or an hourly rate agreement. On a fixed basis, there will be a maximum of \$25,000, of which they say they have already put in time for the City of Sandy Springs. Hourly rates would be somewhere around \$350 per hour. If Council would like to proceed, he would recommend the fixed contract amount. The benefits of seeking the exemption would apply to elections. If the City, in the future, would vote to hold either its own Special Elections or General Elections every four years, we would not have to go through the Justice Department for approval of changing the process.

**Councilmember MacGinnitie** concurred with what the City Attorney presented. He stated the biggest benefit is in not having to go to the Justice Department every time the City wants to make a change to our own elections. Sandy Springs is the perfect city to do this because we do not have any good, bad, or indifferent history.

**Motion and Vote:** Councilmember MacGinnitie moved to authorize the City Attorney to enter into an agreement with an outside law firm, with a cap of \$10,000 in expenditures, to pursue the possibility of bailing out of coverage under Section V of the Voting Rights Act for the City of Sandy Springs. Councilmember Paul seconded the motion. The motion carried unanimously.

#### **PUBLIC COMMENTS**

**Mayor Galambos** called for any public comments. There were no comments from the public.

#### **EXECUTIVE SESSION**

There was no Executive Session called.

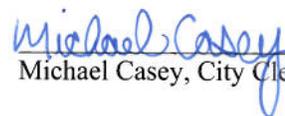
(Agenda Item No. 09-227)

#### **ADJOURNMENT**

**Motion and Vote:** Councilmember Paul moved to adjourn the Regular Council meeting. Councilmember Jenkins seconded the motion. The motion carried unanimously. The meeting adjourned at 6:59 p.m.

Date Approved: March 16, 2010

  
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Eva Galambos, Mayor

  
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Michael Casey, City Clerk