

Regular meeting of the Mayor and City Council of the City of Sandy Springs was held September 4, 2007 at 6:00 p.m., Mayor Eva Galambos presiding.

Call to Order

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

Roll Call and General Announcements

City Clerk Rowland called the roll.

Councilmembers Present: 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.

Approval of Meeting Agenda

Motion and Vote: Councilmember Paul moved to approve the meeting agenda as presented. Councilmember Meinzen McEnery seconded the motion. There was no Council discussion. The motion carried unanimously.

Presentations

Proclamation-National Assisted Living Week

Mayor Galambos read the Proclamation for National Assisted Living Week.

Public Hearings

Consideration of approval of the Formal Abandonment of Woodall Ferry Road to Allow the Underlying Property's Ownership Rights to Revert to the Owners in Fee

City Attorney Willard stated that this is the consideration of abandonment of a stretch of road that is known as Woodall Ferry Road. He expressed concerns regarding the road location and the property lines. He has seen conflicting information relating to the location of the roadway. A plat was prepared by the petitioner. There is a 10 foot strip between the edge of the road and the property line to the north, Nesbit Downs Subdivision. For this reason, he has asked the petitioner's surveyor to certify to the City, that in fact, the roadway is completely surrounded by the property owned by the petitioner.

Mayor Galambos called for public comments.

Guy Weiss, 6 Concourse Parkway, Sandy Springs, representing the petitioner Insignia Holding. He presented the Mayor and Council a site plan of Nesbit Ferry Downs Subdivision. The backyard of this property faces River Ferry Road. Insignia Holdings owns all the property that is Woodall Ferry Road. There is no access, no entrance and no possibility to get to this road from the Nesbit Ferry Downs Subdivision except from the petitioners property. The 10 foot strip the City Attorney mentioned is on Nesbit Ferry Downs Subdivision so they would be the original owner of that property. The original owner of that property created no entrance for the road and no purpose for the subdivision. The petitioner has done a title search of the property, dating back to 1897 and could not find anything to convey the property to the city or to the county. There was a prescriptive easement and they would like to get that back from the city. In essence, the petitioner would like to move this road, which is in the backyards of the Nesbit Downs Subdivision, away from their backyard.

Councilmember Paul questioned what the petitioner wanted to do with the property.

Mr. Wise stated that on January 16, 2007 the City Council actually permitted them to have a quit claim deed for this property. The original plan had Woodall Ferry Road to remain where it is now, therefore their backyards would be facing a road. The City Planning Commission basically wanted the petitioner to correct the problem. The solution the petitioner came up with was to move the road to the south; resulting in backyards facing backyards rather than backyards facing the road. Some of the property owners do not have any physical access.

Councilmember Meinzen McEnery stated that City Council received an email from a Mr. Bein who indicated that there is a strip of land to the north, located at the edge of the ditch which is part of the road. Mr. Bein questioned if there was an additional strip that abutted his property line. She questioned if a surveyor had certified the rear of Bein's property and if it was part of said property.

Mr. Wise stated that throughout this process he talked with Mr. Bein and the four neighbors to the north. The only information the petitioner has found is that Fulton County put gravel on this road only one time. He stated that there is an affidavit from the former owner that shows they had uninterrupted use of the property since 1996 on this private road.

Councilmember Meinzen McEnery explained that if any private property abuts the area to be abandoned and it is not part of the petitioner's property then case law supports sharing the abandoned property to the centerline of the road. It sounds as if there has been some abandonment from Fulton County.

Mr. Wise stated that at one point it was abandoned by Fulton County although they do not have any records showing that they actually own any part of the property.

City Attorney Willard questioned if Fulton County actually abandoned by action of the Board of Commissioners.

Mr. Wise stated that it was through the original package to the quit claim deed done in 1996.

City Attorney Willard questioned if Mr. Wise had a copy of the deed. Mr. Wise stated that he did not have it with him tonight but had it at the January 16th Council meeting. The subdivision that Mr. Bein and the other property owners live in was built after Fulton County got rid of the road. This road has never been updated, upgraded or anything else. Mr. Wise stated that the Fulton County Board of Commissioners heard this item at one of their meetings.

City Attorney Willard stated that he is not aware of any action taken by the Fulton County Board of Commissioners. He will review this further.

Councilmember Jenkins asked the petitioner to provide the quit claim deed from Fulton County.

Motion and Vote: Councilmember Meinzen McEnery moved to defer consideration of approval of the Formal Abandonment of Woodall Ferry Road to the September 18, 2007 meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously.

City Manager McDonough asked Mayor and Council to consider suspending the regular order of business so that staff can provide a brief update on the Lake Forrest School project. There is a community informational meeting scheduled this evening for an update on the Lake Forest School. Ms. Parham and Ms. Leathers will be going to represent the City.

Community Development Director Leathers stated that in August she gave City Council an update and talked about the process of permitting up to the end of July. There was an original submittal from the Board of Education on December 1, 2006. At that point, staff submitted comments and Public Works has been involved in the transportation comments. Staff did not receive a re-submit from the Board of Education until the end of April. On July 20th, there was another re-submittal by the Board of Education for the development of the property which they currently own. This did not include the three out parcels that they are attempting to take. At that time, staff continued to have the same issues related to transportation and a series of small issues on the development side that they needed to resolve. Over the last month, they have done three additional re-submittals, some of which were incomplete. Staff finally received a complete

submittal of all the documents to permit the school on August 31st. However, they have not addressed the transportation issue. Staff spent a great deal of time attempting to get it in a permitted position. Now the paperwork is actually here but the issues are not resolved.

Director of Public Works Parham stated that the primary issue Public Works has is a sight distance issue for the exit onto Cliftwood Drive. They do not have adequate sight distance as required by the accepted standard. This has as yet to be addressed.

Councilmember Meinzen McEnery questioned the distance they are off. Ms. Parham stated that they are off about 40 feet from what is required. Councilmember Meinzen McEnery asked for her to explain what was needed. The school has a natural stream and she asked if that was the reason for keeping them from making the sight distance.

Director of Public Works Parham stated that the exit comes between the out parcels. It is up to the Board to design a driveway to accommodate the sight distance. This is a safety issue for anyone that is pulling out on to Cliftwood Drive. Councilmember Meinzen McEnery asked what she meant by "sight distance". Ms. Parham stated that if you are trying to come out of the exit from the school onto Cliftwood Drive and you want to make a left, there would be an issue of seeing a vehicle approach. There is also an issue that the vehicles approaching the exit could not stop in time to prevent a collision.

Councilmember Jenkins asked if this was the plan with the three houses still in place. They have not submitted anything once the houses are removed. Ms. Parham stated that a permit could not be granted for what they do not own.

Community Development Director Leathers stated the Board of Education has submitted something for staff to pre-review that includes all of that property, but this access point does not change.

Councilmember Meinzen McEnery questioned if ownership of the other three parcels would improve the situation exiting on to Cliftwood. Ms. Parham stated it could improve the situation but what Ms. Leathers is saying is the plan they have given us to pre-review for that condition does not change this location. There is an entrance/exit onto Sandy Springs Circle, a right-in/right-out entrance.

City Manager McDonough stated when he talked with the Superintendent about this; he was very concerned about the configuration on Sandy Springs Circle. Council needs to understand why the staff arrived at that determination.

Councilmember DeJulio stated one of the proposals someone had was to move the entrance east of where the entrance is now between the two existing houses. He questioned if this was the plan shown to him.

Community Development Director Leathers stated it is her recommendation that the access point on Cliftwood remains where it is on the plan the City currently has. She will go back and check again.

Councilmember DeJulio stated the Board had asked Council if there was a possibility for them to start the construction work on the foundation. He questioned if this type of permit could be issued.

Community Development Director Leathers stated staff has issued a grading permit for the area of the school. However, she is hesitant to issue a building permit until the access issues are worked out because it could change the site plan and it would obligate us to a location that might not work.

Alcoholic Beverage Licenses

Consideration of approval of Alcoholic Beverage License Application (007042) for Lambrou Sandy Springs Inc dba Landmark Diner at 5785 Roswell Rd Sandy Springs, GA 30328. Applicant is Gianis Asprakis for Consumption on the Premises Wine, Malt Beverage and Distilled Spirits.

Director of Operations Horn stated that this application is for Landmark Diner. It is relative to a change in ownership. A full and complete application is on file with staff. The criminal history has been completed, as well as the fire

inspection, appropriate zoning has been confirmed and a temporary license was issued on July 2, 2007. The public hearing has been advertised as required by the ordinance and all administrative requirements have been met.

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

Motion and Vote: Councilmember DeJulio moved to approve the Alcoholic Beverage License Application for Lambrou Sandy Springs Inc dba Landmark Diner at 5785 Roswell Rd Sandy Springs, GA 30328. Applicant is Gianis Asprakis for Consumption on premises Wine, Malt Beverage and Distilled Spirits. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Consideration of approval of Alcoholic Beverage License Application (000648) for Highness Line LLC dba Northridge Road Exxon 8325 Roswell Rd Sandy Springs, GA 30350. Applicant is Shaizai Tejani for Retail Package Wine and Malt Beverage.

Director of Operations Horn stated that this application is for the Northridge Road Exxon. It is relative to a lapsed alcohol license. A new application was made on May 29, 2007, appropriate zoning has been confirmed, staff has adequate criminal history, fire inspection is complete and a temporary license has been issued. The public hearing was advertised as required by ordinance and all administrative requirements have been met.

Councilmember Jenkins questioned if it was lapsed by the applicant and what was the reason.

Mr. Horn said the applicant did not give a reason on his application. He can research if Council wants to defer this item.

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

Motion and Vote: Councilmember Meinzen McEnery moved to approve the Alcoholic Beverage License Application for Highness Line LLC dba Northridge Road Exxon 8325 Roswell Rd Sandy Springs, GA 30350. Applicant is Shaizai Tejani for Retail Package Wine and Malt Beverage. Councilmember Paul seconded the motion. The motion carried 4-1 with Councilmember Jenkins voting in opposition.

Unfinished Business

Consideration of approval of a Memorandum of understanding with Heritage Sandy Springs for maintenance of property and facilities.

Councilmember Fries stated that there are still some issues that need to be addressed.

Laura DeLong, President of the Board of Heritage Sandy Springs, stated that there are outstanding issues that need to be identified having to do with cost analysis of service and time is needed to work through this.

Motion and Vote: Councilmember Fries moved to defer approval of Memorandum of Understanding with Heritage Sandy Springs for maintenance of property and facilities to the September 18, 2007 meeting. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Consideration of approval of a Memorandum of Understanding with Heritage Sandy Springs for the City's concert series.

Councilmember Fries stated that the Leadership contract is complete and is moving forward.

Councilmember Fries stated that Council has had a lot of discussion about how the City should handle the non profit organizations. There has been talk about the non profits being on their own, and talk about them going through the Hospitality Board. She questions what would be an effective way the City could give non profit funding without it being a donation coming out of the City's General Fund. She and other members of Council believe it is very important not give any tax dollars to any of the non profit organization. Her thoughts were on how the City could get funds for the

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non profits in a more palatable way. If the City owns or leases the property, then the City should maintain it. This would be a good way to give the funds without it being a donation. This summer her family enjoyed many of Roswell's movies and concerts. She thinks this is a great idea and is something the City could do as well for the community. Sandy Springs is a new City and she believes this would be a great way to get the City's name out there. This is something the Hospitality Board has been working very hard on doing. She would like to change the name and have the City own it, contract with non profit organizations to put the events on. The City can work with Leadership on the movies and Heritage on the concerts. She believes this would be a good way to do this.

Mayor Galambos called for public comments.

Mel Mobly, Heritage Sandy Springs, stated that the original lease was signed in 1986. For 20 years, members of the community have managed to assemble this. He feels this works for two reasons; one, they have a lease that runs through 2035, second, they have made a name for themselves and people know them. Donors identify with them and like donating their money to non profit organizations rather than the government. One of the reasons they would like to maintain the name "Concert by the Springs" is because they have done it and developed it. This event could be presented by the City. They feel this would be the most effective way. This event is not Heritage Sandy Springs; everyone contributes their time and gives money to Heritage Sandy Springs. They are delighted to have the City of Sandy Springs do this.

Motion and Second: Councilmember Meinzen McEnery moved to approve a memorandum of Understanding with Heritage Sandy Springs for the City's concert series with the following three changes; add to Header Line Memorandum of Understanding - *Fee for Service Contract*, Change Section 1. To read: To present a Concert Series *to the community* on the property known as Heritage Green, which shall be called "*Concerts by the Springs*". Councilmember Paul seconded the motion.

Discussion on the Motion: Councilmember Meinzen McEnery stated that the concerts have been an incredible benefit to our community. This contract only provides them the funding of \$12,000 for the performances, programming and putting on the concert.

Councilmember Jenkins stated that she concurs with Councilmember Fries. Non profits contribute to the City not the other way around. She feels that what Councilmember Fries is trying to do for them is a way to give money to the non profits through a service contract. Heritage raises private funds, approximately \$420,000. She does not understand why Heritage even needs \$12,000 to put on these concerts and does not understand why money is needed from the City to put on four concerts. All the City is asking for is a name change so that the City can get some credit for it. She pointed out that in the contract, under "Intention" A) concerts are to be scheduled during the summer and fall of 2007. Those concerts have already been held and should be changed to 2008.

Councilmember Meinzen McEnery stated that the cost to operate, maintain and provide the services of Heritage Sandy Springs is approximately \$416,000 a year. They raised those funds from the community. Hammond Park is an active park, has two full time staff members, and part time people that provide gym lessons. The City budgeted \$540,000 to run Hammond Park. Heritage Sandy Springs is costing \$416,000 to \$420,000 to run. They are providing services the city would be paying for except for the not for profit groups which have raised all the operating funds. Councilmember Fries came up with a method for the City to recognize the contributions of Heritage in such a way as to do two things; fee for service contract to put on the four concerts and also the utility Memorandum of understanding which needs more work to. Heritage needs to be recognized for the funds raised and why we need to pay the \$12,000 for 2007. Next year needs to stay on a calendar year basis because that is how sponsorship is gained the entire calendar series.

Councilmember Fries stated that she does not like the word "programming" because Council just approved the non profit policy that states we will not provide programs. Of the \$400,000 plus, we are trying to get a contract signed to cover \$75,000 which is not quite 25% but is very close. She was not trying to get Heritage anymore money on the concerts because that is a small amount, but she was trying to do something for the City.

Substitute Motion: Councilmember Fries offered a substitute motion to approve Memorandum of Understanding adding; a Fee for Service Contract, Summer 2008, concert name "Concerts by the Springs". Councilmember Jenkins seconded the motion.

Discussion on the Motion: Councilmember DeJulio stated that for years the City has been battling the fight for lack of services in Sandy Springs and it is one of the reasons we are here. The public in Sandy Springs looks at the services, the concerts, movies, and festivals that are available and pays no attention to who is paying for it or who is getting the credit for it. As a City, we have an obligation to the people of Sandy Springs to provide these services. Whether we provide them or Heritage or Leadership provides them, a City has to provide services. As of a 1 ½ year ago, we had zero services so we are building on all of these things. He believes that if the City can go ahead and get an organization like Heritage which is unquestionably in the City's best interest at heart. We as a City are obligated to provide services to our residents. He attended one of the concerts and it was wonderful representation. He wants the service and does not feel that the City should duplicate what is already there.

Mayor Galambos questioned Ms. Long on what the policy would be in terms of recognizing the City's contribution.

Ms. Delong stated that the City logo would appear on everything such as flyers, banners and posters.

Councilmember Paul stated that the City is getting a bargain here. If the City did not have Heritage raising money then we would have to pick up the entire cost. We are in a bold experiment in this community and we privatized everything except for public safety. He likes this idea of relying on our private sector community to provide more and more services. This is what makes us unique and what has given so much attention to this City over the last two years. He would like to see other private groups step up and bring us proposals. The City is not donating as much money as we are buying a set of services from a private entity which happens to be the City's citizens. If it were not for Heritage, Leadership, SSRI and other organizations who stepped in, this community would have blown away a long time ago. This community has a resiliency about it that reminds him of someone who studies the life cycles of community. This community should have given up and gone away years ago and it is because of the resiliency and the tenacity of our private non-profit organizations, the conservancy and all kinds of folks have stepped in to keep this community together. Councilmember Fries has done an unbelievable amount of work and has invested tremendous amount of emotional pride in this, he salutes her for that. He supports about 99% of what she has done. He believes that this is a very good compromise and is proud to support it. He thanked everyone that has kept this community together over the last 20 years as well as being willing to continue to do it.

Councilmember Fries asked for clarification on when the funding will start.

Councilmember Paul stated that these MOU's have been in the process of being negotiated for months.

City Attorney Willard stated that he did not know if the City of Sandy Springs was or was not a sponsor of the concerts that have already occurred. It takes away a benefit of payment.

Councilmember Meizen McEnery stated that next year the MOU should address the City's contribution to these events.

Withdrawal of Substitute Motion: Councilmember Fries withdrew her motion. Councilmember Jenkins withdrew her second.

Vote on Main Motion: The motion carried with 3-2 with Councilmember Fries and Councilmember Jenkins voting in opposition.

New Business

Consideration of approval of a Resolution adopting the Abernathy Greenspace Linear Park Master Plan and Phase 1 Plan.

Resolution No. 2007-09-42

Deputy Director Drysdale stated that staff presented the Master Plan and Phase I Plan at the August Work Session. This Resolution adopts that and provides the frame work for going forward.

Councilmember Jenkins questioned if any of the money for this has been set aside.

Deputy Director Drysdale stated that there is no money for park construction in the FY08 budget but there is still money for design. Staff will go through the detail design and are looking at 2009, 2010 and future years. Council will get a complete packet on this as we move forward.

City Manager McDonough stated that staff is pursuing grant funding right now, specifically transportation enhancement funding. The money in the FY08 budget is for land acquisition to acquire the parcels.

Councilmember Fries questioned the surface of the trails in the park and questioned if they were to be paved.

Deputy Director Drysdale stated staff has talked about pervious trail on the south side because it is in the buffer area. The north side will probably be concrete multipurpose trail

Mayor Galambos stated that they are going to accommodate everybody on each side.

Councilmember Paul stated that Representative Willard and Representative Wilkinson agreed to support the City's application; we will have a significant amount of money coming from the State to help with the park.

Councilmember Meinzen McEnery stated that there is some wonderful technology that she would like for Council to look at for pervious surfaces that are very hard and ADA compliant.

Councilmember Jenkins stated this is a 10 year payment plan and questioned if the state funding would speed up the plan.

Councilmember Paul stated that his goal is to raise as much money from private and public sources to help move this along as fast as possible.

Motion and Vote: Councilmember DeJulio moved to approve a Resolution adopting the Abernathy Greenspace Linear Park Master Plan and Phase 1 Plan. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of an Ordinance calling for a Special Election to be held November 6, 2007 and for other purposes.

Ordinance No. 2007-09-51

City Clerk Rowland stated that this Ordinance will call for the Special Election to be held on November 6, 2007, call for a Run-off if needed will be held December 4, 2007. It also establishes Absentee Balloting as well as qualifying dates, qualifying fees and appoints the Fulton County Board of Registration and Elections as the Elections Superintendent.

Motion and Vote: Councilmember Fries moved to approve an Ordinance calling for a Special Election to be held November 6, 2007 and for other purposes. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion carried unanimously.

Consideration of approval of an agreement with Fulton County to conduct the 2007 Special Election and run-off if needed and authorize the Mayor to sign.

City Clerk Rowland stated that the City needs to contract with Fulton County to hold the Special Election.

Assistant City Manager Rapson stated the City has received an estimate of \$36,420 from Fulton County for the Special Election. This cost includes all the precincts as well as services for IT and everything to run that election. Fulton County also has a budget set aside for a run-off if needed of \$19,834. Staff recommends approval of the agreement for Fulton County to conduct the City's Special Election in the amount of \$56,254. We received a bill for the previous Special Election, the General Election and Run-Off that happened when Sandy Springs Election birthday funds of \$288,000 which will also come out of the fund balance to be paid back.

Mayor Galambos stated expressed her concern regarding the cost.

Assistant City Manager Rapson stated that the \$29,000 is what one would expect to pay which is basically for the poll workers and managers. In addition, they rent vehicles, radios and cell phones and those types of things and pay rent at some of the precincts. In addition, along with benefits they pay some overtime charges for existing Fulton County employees. There is also a 10% administrative surcharge. He spoke with the interim director and explained how some of this was considered double dipping. The interim director intends to go to the Election Board to discuss how they actually bill these charges. He advised her that City Council would be taking action on this tonight and that his recommendation is to go ahead and pay the charges. He explained if the City received a credit after going before the election board; the City might also receive a credit for the Special Election and the Birthday Election.

Mayor Galambos stated that should South Fulton pass, in September, there will probably be a County-wide Election in November to decide what to do about an industrial district. We can piggy back on the county election and none of this will cost the city anything. She would like this clause written into the contract. Mr. Rapson stated the staff and City Attorney Willard will make that addition.

Councilmember Paul questioned if it would not be more economical for Sandy Springs to manage our own election going forward.

City Manager McDonough stated that is something staff will have to look into. This is one of the items that has been reviewed by the Service Delivery Task Force consisting of himself and other North Fulton City Managers.

Motion and Vote: Councilmember Paul moved to approve an Agreement with Fulton County to conduct the 2007 Special Election and run-off if needed with an amendment to Section 3 of the contract to include the following: "In the event a county-wide election or referendum is conducted on the same day as the City special election, then the City shall pay only for the direct cost associated with preparation of the ballots of the special election, and the County shall reimburse the remaining funds to the City." and authorize the Mayor to sign. Councilmember DeJulio seconded the motion. There was no Council discussion. The motion carried unanimously.

Public Comments

There were no public comments.

Executive Session -Attorney-Client Privilege

Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss Attorney-Client Privilege. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously with Councilmember Dianne Fries, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio and Councilmember Karen Meinzen McEnery voting in favor. There was no Council discussion. Executive Session began at 7:15 p.m.

Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously with Councilmember Dianne Fries, Councilmember Ashley Jenkins, Councilmember Tibby DeJulio and Councilmember Karen Meinzen McEnery voting in favor. There was no Council discussion. Executive Session ended at 7:29 p.m.

Adjournment

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Meinzen McEnerny seconded the motion. After no further Council discussion, the meeting adjourned at 7:30 p.m.

The meeting adjourned at 7:30 p.m.

Date approved: October 2, 2007



Christina V. Rowland, City Clerk



Eva Galambos, Mayor

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

September 4, 2007

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 4th day of September, 2007, 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 4 day of September, 2007.


Notary public

