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**Work Session of the Sandy Springs City Council was held Tuesday, March 13, 2007 at 6:00 PM, Mayor Eva Galambos presiding.**

**Councilmembers Present:** Councilmember Dianne Fries, Councilmember Karen Meinzen McEnerny, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, and Councilmember Rusty Paul.

**Staff Discussion Items**

**Discussion of Amendment to Chapter 7 relating to transfer of location**

**City Attorney Willard** stated that the city has reviewed a provision of the ordinance that deals with the licensing of location for Alcoholic Beverages. A mistake in the ordinance regarding the transfer of license from one location to another and can not be done this way. You license a location because of the setback requirements/distance requirements from churches, schools and things of this nature. This is to clarify the ordinance by showing there is not a right of location change just by a transfer. It has to be done by a re-licensing process. This is the purpose for the amendment to Chapter 7, Alcoholic Beverage.

**Discussion of Tax abatement Incentives**

**City Manager McDonough** stated that the Mayor, Councilmember Paul, City Attorney and himself had an opportunity to meet with some representatives of the Fulton County Development Authority several weeks ago. The Development Authority during the meeting talked about some exciting projects and partnership opportunities; how we might work together going forward. With us this evening is Chairman Bob Shaw and Attorney Lou Horn. For the benefit of the Councilmembers that were not able to attend the briefing, they are here to share a little bit about the state law and talk briefly about the threshold criteria that the Development Authority uses for potential clients, relocations and what triggers some incentives and tax abatement. Our City Attorney will talk a little about this and then see if Council supports this.

**City Attorney Willard** stated that there is a general provision in Georgia Law Entitled 36-42 which deals with the Development Authorities in Georgia. It is a provision that is adoptable by local governing bodies, in our case, the Fulton County government. In May 1973, by Resolution adopted and established an Authority in Fulton County under this Georgia law. The law provides powers and rights of the authorities and the policies of the Authority. It is an autonomous group. They work by themselves and have certain tax exempt status as to their property and their bonds for the ability to sell the bonds. The Authority will locate someone who desires to have a property for development for commercial need and purpose of employment. From that the Development Authority working with them may help in locating property, determine what will be an appropriate standard by which they will authorize the issuance of bonds. Those bonds, when issued are tax free bonds. The proceeds are then used to buy, build or develop the property and in doing so will be entered into a long term lease and the lease is then used as collateral for the payment of bonds. The State does not actually guarantee the payment of bonds so the bonds stand by themselves as to what the Authority is backing will be based upon what they have in the financial backing of those whom do business. They will set up certain standards. There is no set standard under the law for determining when and under what circumstances they will have dealings with someone. In talking with the representative of the Fulton County Development Authority they have established a criterion. That criterion is developed in conjunction with Fulton County back before the city was incorporated. This has been going on for several years. They have spoken to us now that the city is incorporated wanting to establish what will be the criteria acceptable for our city, for them to bring potential clients to us who will be doing developments in our area. The state law addresses the acquisition, construction, leasing or financing of office building facilities and related real and personal property for use by any business enterprise or charitable corporation or association or similar entity which will further the development of trade commerce industry, employment opportunities which shall be adjacent to or used in conjunction with any other existing or proposed project defined in this paragraph. There is broad latitude in working out what is to be done as far as property acquisition is developed.

Mayor Galambos questioned if it could be acquisition in the existing property. City Attorney stated that it could. Mayor Galambos gave background information concerning this item.

**City Attorney Willard** stated that across the state, the Development Authorities act differently as to how they treat tax abatement. Some give 100% tax abatement for the full time which may be up to ten (10) years and Fulton County gives 50%. In all cases they have to have this worked out as part of an agreement and understanding with the Tax Assessors.

Mayor Galambos stated that the discussions were held before Sandy Springs became a city. The tax abatement commitments for Prado (Sembler) and Newell Rubbermaid were made before the city was incorporated.

**City Attorney Willard** stated that across the state each of the Development Authorities act differently as far as the tax abatement, some give 100% tax abatement for the full time which may be up to 10 years and Fulton County gives a 50%. In all cases they have an agreement and understanding with the tax assessors. The Statutory Law is not real clear on this but, there is case law by which the courts recognize this a part of what the Development Authority has the ability to do, as to holding property under this tax abatement programs.

**City Manager McDonough** stated that the criteria are simple and straightforward. It must be Corporate Headquarters, at least 250 employees. This criterion was adopted by Fulton County back in 1993.

Mr. Horn stated that each year the property is appraised by the tax assessors and then the 50% formula is applied.

**City Attorney Willard** stated that what is being suggested is to have in place, the guidelines, so it is known what is acceptable to our city as they bring projects forward.

Councilmember Greenspan question how the Development Authority would know Councils position on this.

Mayor Galambos stated that the city is now putting forth some responsible guidelines should Council agree on them. The Development Authority has no legal obligation to go by the City's guidelines but, they have indicated that they would like to.

**City Attorney Willard** stated that whatever is brought up will be something that is looked upon by the Authority, all the deals coming forward in the future. They have already had a numbers of contracts they are committed to, one Compu-Credit, timeline would be reviewed by us.

Mr. Horn stated that this is a very competitive business. In a typical case an economic or relocation person within the corporation will call up the Development Authority and say, they are considering three locations in Atlanta and ask what the incentive package is. We don't go out and solicit people, people come to them.

Mayor Galambos would like for City Council to look at her list of ideas and comment on them. The reason she assumes it should be real property is that personal property includes computers, which will be outdated in three years and yet this tax abatement goes on for 10 years. She would like to see some personal property that is not movable.

Mr. Horn stated that they have found that computer equipment is in fact the hottest item right now. In terms of economic development, that 40% of the deals done in the past two years have been data entry centers. Computers are one of the leading items that people are looking for in the incentive package.

Mayor Galambos questioned what would happen to outdated computers two or three years from now.

Mr. Horn stated that if the computer is outdated then they will come back and buy new computers, and start the 10 year program again.

Councilmember Meinzen McEnery stated that the City has to have a competitive package, whatever it is. Council should take that into consideration when modifying the criteria because the city might lose the opportunity.

Mr. Horn stated that both of the bond deals are in fact taxable bonds. Most people think about tax exempt bonds. Tax exempt have very limited scopes so that these deals are for companies called privatization bonds. They are not exempt from federal income taxation, they receive no benefits, and they would use all the same documentation.

Mayor Galambos stated that the second item on her list has to do with the whole reason why the City wants economic development. Economic Development is something the city wants because we want people to come and buy our houses and buy our product. If this entails moving a company from one location to another, the move should entail a distance of at least two miles from the previous location.

Councilmember Jenkins stated that her only concern about that is the city is not capturing property taxes. We are going to see some increase from the property tax and it may take 10 years before it gets to 100%. If a business is just moving around the Perimeter CID from the Dekalb side to the Fulton side, the city still gets a bigger tax base.

Councilmember Greenspan stated that there are a number of other taxes that come with a business relocating, business license and so forth. He does not know if the two miles is really an applicable restriction.

Mr. Horn stated that from a standpoint of rating agencies, one of their current considerations is the large corporate taxpayers. If you see a large public offering then you will see where they tabled the large corporate taxpayers, and that ultimately will prove beneficial for the rating the city will pay for a rating agency. They have recently done an analysis and if they were to do Sandy Springs and live in Sandy Springs their determination this far is that of the total tax savings over the 10 year period only 14% of that would be coming from tax savings that would have otherwise been paid to Sandy Springs, so 86% of those tax savings are picked up by other taxing entities within Fulton County.

Councilmember Fries stated that she is going with the "let's meet with the marketing concept". She questioned if any of these criteria would prohibit, in his experience, give Sandy Springs either an edge or hurt Sandy Springs.

Mr. Horn stated that it is a balancing situation within Fulton County. They are less aggressive than their neighbors so they are already at a disadvantage. They have lost two deals this year and do not say yes all the time. At that point and time ultimately they have to sell Fulton County the standard of living, education systems and all those other things that are at a disadvantage in terms of dealing with some of the areas. In addition, impediments will make the area less desirable for those economic development types who work in the corporations and play jurisdictions against each other.

Mr. Horn stated that in terms the larger taxpayers' right with tax amenities is that the Board of Education and Fulton County are aware of what they are doing. There are reports given to the CFO but generally speaking their concern mostly is even through the portion of the tax savings is smaller for the local governments. They are the ones most peculiar concern and that is where their concerns have been.

Councilmember DeJulio questioned if most of the other governments have separate criteria for the Authority, or do most of the other local municipalities follow a standard criteria.

Mr. Horn stated that it is pretty much across the board. Within Fulton County this is basically what would be the first time they have varied their criteria presented for local government. The criteria for the others cities are the same. Mayor Galambos stated that she has inquired from Roswell about what their situation was and is aware that they have had no abatement from the Development Authority.

Mr. Horn stated that within the past year they have done several in Alpharetta as well as Johns Creek. He does not remember anything in Roswell.

Mayor Galambos stated that she wants to be open with where she is coming from. She thinks that Sandy Springs is at the cusp of a fabulous development. Sandy Springs has GA 400 and I-285 which are the prime location. Everybody is looking at Sandy Springs up and down Roswell Road, and we have not broken ground yet, but the developers will come. She thinks Sandy Springs is a very desirable location for folks to come to. Sandy Springs is standing in a position where many are going to come anyway.

Mr. Horn stated that he agrees with her and hopes she is right. The problem is the quality of life decisions are made and are basically on one side and the economic decisions on the other. There was an incident early this year where the CEO and a number of senior officials wanted to move into Fulton County. The bottom line, the dollar made them go for another County. This has become an economic consideration built by economic development of professionals within a company and you may not get a chance to tell the right people how good Sandy Springs is because by that time, Sandy Springs has already been excluded, because the incentive package of the park. He does not know the answer but, that is the game we play.

Councilmember Greenspan stated that he welcomes it and 50% of the city's tax base comes from non residential property taxes. In order for the city to keep providing the quality of service to the residents, he would like to see the city enhance economic development. This is a good way to do it. In order for Sandy Springs to play in the field, if Roswell, Alpharetta and Johns Creek offer incentives, so should Sandy Springs or the city may miss the opportunity to attract some businesses and not know it. He would support an abatement program in order to attract long term economic development in the city. Roswell has an Economic Development Director and Sandy Springs does not yet. He thinks it is something the city needs to look at, to serve as a liaison with the city and the Fulton County Development Authority to keep promoting businesses to come into Sandy Springs. He will bring this up in the budget discussion over the next few months.

Councilmember Fries stated that the Chamber represents Sandy Springs, also companies go to them.

Councilmember Jenkins concurred with Mr. Greenspan. She does not want to put anymore impediments in the way. If somebody wants to move from the Dekalb PCID to the Fulton PCID just a little further up the road, one block over, she wants to do it. She wants the tax abatement from them. It will increase the city's tax base 50 % of something verses 100% of nothing. She thinks that is very important and would be in favor of leaving the criteria the way it is and not add any of these. She wants to be at the same playing fields that Dekalb is. She does not want to lose business over at the Dekalb side.

Councilmember Meinzen McEnery stated that she thinks these were well reasoned and considered. She agrees with the Mayor that the city is a wonderful community, and will be in the crossroads of redevelopment. She agrees with Councilmember Greenspan and Councilmember Jenkins on being competitive. The city needs to have the same incentives that the others folks are offering.

Mayor Galambos stated that everyone has heard the consensus from the Council which is obviously not what she had put on the table. She is not convinced that she is wrong but, we will certainly abide by the values of the Council.

Mr. Horn thanked the Mayor and Council for their consideration and time. They will do their best to be a good economic development partner for the city.

**City Attorney Willard** stated that if Council wishes, he will prepare a Resolution so the city can have something in writing on the position has. He will direct them to contact the City Manager.

**Angelia Parham, Public Works Director**

**Discussion of Acceptance of the Right-of-Way Improvements to Old Johnson Ferry Road and South Johnson Ferry Road.**

**Planning Engineer Moore** stated that the City has recently accepted two pieces of right-of-way in conjunction with this project. This is part of a redevelopment initiative that Saint Joseph's Hospital started with Fulton County. This is just a follow up to finally getting the deal done and approved through Fulton County because, the roadway itself was permitted and constructed and inspected under Fulton County. The City Public Works staff actually by the time they started doing the signalization was up and running and staff inspected the signal, went back and reinspected the roadway, and found it to the city's satisfaction. The attorneys involved have requested the city give them an official notice, that the city has accepted the improvements to the right-of-way. Council has already accepted the deed for the last two pieces of right-of-way, the individual right-of-way property that they need to dedicate to the city. Staff has the final plat showing the entire area and its disposition in Community Development right now for approval. This is a formality to finish up this last process of land swap.

Councilmember Fries questioned if this was mostly the improvements of the right-of-way that Council has already talked about.

Mr. Moore stated that apparently Fulton County wanted some other note from the city saying that we agreed to accept the improvements to the right-of-way including the signalization which they did not. This is officially just accepting the right-of-way improvements.

**Nancy Leathers, Community Development Director**

**Discussion of Quarterly Text Amendments to Zoning Ordinance**

**Assistant Director of Planning and Zoning Zehner** stated that this is a list of quarterly text amendments that staff is proposing. This includes three (3) text amendments, originally four (4). One portion of RZ07-006 which deals with sureties verses performance bonds was deferred for 60 days by the Planning Commission and another text amendment dealing with the PCID Ordinance was also deferred by the Planning Commission. Staff will bring this to Council in April and May respectively. RZ07-002 amends Article 3 is to remove the definitions from signage from Article 3 and references that one can find those definitions in Article 33. The next text amendment, RZ07-003 is an amendment to Article 4. He stated that there are several tasks that include the city along with the county and state that were already in the ordinance but include the city if the city acquires land for right-of-way improvements that it does not invalidate a lot if it brings it into nonconformity. It requires that accessory site features meet the same setbacks as accessory structures. Accessory site features are mechanical equipment and generators but, does not include pool equipment. That provision is still in Article 12 as an administrative permit requiring that those be set back ten (10) feet. This amendment also inserts the title and adoption date of a new Tree Conservation Ordinance to provide for linkage between this ordinance and the Tree Conservation Ordinance. In addition, this requires that parking lot landscape trees be three (3) inch caliper rather than two (2) inch caliper and also specifics where parking lot landscape islands need to be located. The regulation has not changed but it was fairly vague or there was some confusion over it. RZ07-006, the last amendment inserts the City as the receiving body for funds to certify the completion of necessary site improvements. It requires that new private streets be setback the same distance as new public streets which is 50 feet and removes additional setback required for pipeline easements. Currently there is a 40 foot setback required from the easement. Staff has talked with the pipeline companies in the past and specifically with a variance that the pipeline companies do not feel it was necessary. They usually apply an easement that is sufficient and they were also concerned that this might be a case of inverse condemnation, in the past on some specific cases that dealt with in Fulton County.

Councilmember Meinzen McEnery question how staff determines the need to make these modifications.

**Assistant Director of Planning and Zoning Zehner** stated that some of these are ones that staff has come across and has been enforcing the regulations; others are suggestions from Council as well as the Planning Commission and other boards. Staff makes a running list and has more than enough to keep busy. This does not exhaust the list that the city has. Staff felt this was manageable for the time they have. Should Council find errors, he asked that a email to sent to him or Nancy, and staff will get that in the next round.

## **Discussion of Code Enforcement procedures.**

Chief Enforcement Kellum and Environmental Engineer Dettwiler gave the following presentation.

### **Inspection, Investigation and Enforcement**

#### **Objective**

- **Voluntary Compliance.** Prosecuting a code violation is the least efficient way to guarantee an improved community.
- Education and guidance for the community.
- Punitive action should only be taken as a last resort. A Notice of Violation provides the education and guidance components.

#### **Prosecution**

- Prosecuting private citizens for ordinance violations is a difficult task.
- Competency and fairness are qualities of a good inspector/officer.
- The local regulations, codes or ordinances may be somewhat complex, so violations may be unintentional.
- If a violation was clearly unintentional and is quickly remedied by the violator, then it is in the best interest of all concerned to simply issue a Notice of Violation and proceed on without imposing any penalty.

### **Land Development Inspections Program**

#### **Building & Development**

**Notice of Violation (NOV)** issued for maintenance related issues and minor violations.

1. Failure to maintain existing erosion control Best Management Practices (BMP's)
  2. Tree-save fence that is in place, but has fallen down
  3. Failure to have permit and site plan posted at the right of way (but posted on site behind right of way), etc.
- Persons given a Notice of Violation are given three calendar days to correct the violation or request a time extension (in writing). Erosion related cases are given five days to comply (pending change to 3 days).
  - If at end of this compliance period the site remains non-compliant, a Stop Work Order is issued.
  - It is important to remember that when a Notice of Violation is posted on a site, no additional inspections (whether site or building related) are to occur until the site is in compliance.

**Stop Work Order** – Issued when a site has not met the compliance period of a NOV, or automatically issued in the following cases:

- If Stream & Zoning buffer encroachments,
- Chattahoochee River Corridor encroachments,
- Tree Conservation Ordinance violations,
- Working without a valid permit or with having approved permit, site plan or construction plans on site
- Erosion violations that result in the migration of sediment off-site.

**Municipal Court Citations** – Issued when non-compliance has progressed through the NOV and Stop Work process, and automatically in the following cases:

- Stream buffer encroachments,
- River Corridor Encroachments,
- Working under a Stop Work Order,
- The removal of protected trees, landmark trees or encroachments into tree save areas without a permit and

- Sites that are in habitual non-compliance and have been through the Notice of Violation process already.

### **Personnel**

- Environmental Engineer
- Chief Arborist (Full Time)
- Arborist (Part Time)
- Chief Land Development Inspector
- Land Development Inspectors (3)

### **Land Development Inspections Daily Schedules**

- Scheduled Inspections – 35%
- Random Inspections – 37%
- Complaints – 16%
- Other – 12%

### **Defined Role**

- Inspect all Land Disturbance Permit Sites and all active Building Permits, Demolition Permits, Pool Permits for the following (if applicable):

1. Installation and Maintenance of Erosion Control Best Management Practices
2. Clearing, Grubbing & Grading Operations
3. Installation of Storm Sewer System
4. Installation of Curb and Gutter
5. Preparation of base course, binder and topping for roads
6. Inspection of right-of-way improvements
7. Determination of State Waters

### **▪ Scheduled Inspections**

1. Pre-Construction Meetings
2. Stormwater Detention Inspections
3. Final Site Inspections
4. Re-inspection of sites under enforcement

### **▪ Education and Guidance**

1. Greater Atlanta Home Builders Association Meetings
2. Workshops outlining new Tree Conservation Ordinance and Noise Ordinance
3. Soil & Water Conservation Commission Meetings

### **▪ Plan Review (including)**

1. Tree Conservation Ordinance Requirements
2. Chattahoochee River Corridor Compliance
3. Stream Buffer Protection Requirements
4. Review and approval of as-built plans

### **Land Development Inspection Totals**

**December 2006 – February 2007**

Dec 2006

Jan 2007

Feb 2007

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Development Inspections	448	596	469
Sites in Violation	46	59	46
Erosion & Sedimentation Control Violations	38	51	36
Tree & Stream Buffer Violations	7	14	13
Permitting & Zoning Violations	14	8	13
Percentage of Sties in Compliance	90%	90%	90%

**Monthly Enforcement Totals – February 2007**

<u>District</u>	<u>Notice of Violation</u>	<u>Stop Work Order</u>	<u>Municipal Court Citation</u>
1	0	1	0
2	1	0	0
3	9	1	0
4	0	1	0
5	1	0	0
6	20	11	1
<b>Total</b>	<b>31</b>	<b>14</b>	<b>1</b>

**Quick Building & Development Statistics  
 (period covering Jan. 2006 – Feb. 2007)**

- Development Inspections = 6106
- Sites in Violation = 443 (8%)
- Erosion Violations = 341
- Tree & Stream buffer Violations = 75
- Permitting Violations = 122
- Sites in Compliance = 92%

**Code Enforcement Program**

**Personnel**

- Chief Enforcement Officer
- Code Enforcement Officer (5)

**Code Enforcement Department Daily Schedule**

- Case entry, research, updates – 15%
- Complaints – 30%
- District Patrol – 25%
- Special Assignments – 18%
- Other – 12%

**Monthly Enforcement Totals – February 2007**

<u>District</u>	<u>Notice of Violation</u>	<u>Cases</u>	<u>Municipal Court Citation</u>
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1	8	8	0
2	3	3	0
3	20	29	7
4	17	25	3
5	11	12	0
6	8	11	6
<b>Total</b>	<b>67</b>	<b>88</b>	<b>16</b>

**Quick Code Enforcement Statistics**

**(period covering Jan. 2006 – Dec. 2006)**

- District 1 – 150 cases or 6%
- District 2 – 375 cases or 15%
- District 3 – 675 cases or 27%
- District 4 – 400 cases or 16%
- District 5 – 275 cases or 11%
- District 6 – 625 cases or 25%
- Approximately **1,850** Notice of Violation (NOV<sup>s</sup>) given as of December 2006
- Approximately 2,500 cases investigated: 51% field generated by officers and 49% from call center, fax, e-mail or other

**Defined Role**

- Enforcement city codes and ordinances pertaining to zoning and property maintenance.
- Respond to concerns of citizens, the business community and city officials
- Prepare records and reports pertaining to court actions, daily activities, enforcement actions and inspections.
- Issue citations for violations of codes and standards.
- Schedule and perform systematic inspections to maintain or achieve minimum housing standards.
- Testify in municipal court as required.
- Business License inspection.
- Waste Hauler enforcement.
- Taxi Cab inspection
- Apartment and single family residence “sweeps”.

**Code Enforcement – examples of violations**

- Junk vehicles
- Trash and debris on property
- Overgrown properties
- Outdoor storage
- Illegal signs
- Illegal Businesses (residential and commercial)
- Building code violations
- Constructing without an approved permit

**Procedures**

- Persons given a Notice of Violation are given three calendar days to correct the violation or request a time extension (in writing)
- If the violation continues past the deadline, the Code Enforcement officer will issue a citation for appearance in Sandy Springs Municipal Court or take such other legal action authorized under state law and City Ordinance.

## The Notice of Violation (NOV)

### **Procedural Due Process (Private Property Rights)**

- Should the inspector/officer give clear, definite and certain notice of what has been found, what is required, and the reasons for the order so that the property owner knows what to expect?

### **Contents of Notice**

1. A Notice of Violation shall be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation and why the notice is being issued.
4. It shall include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of the code.
5. It shall include a statement of the right to file a lien (where applicable).

### **Code Enforcement**

- If there are questions about a notice, it is best for the violator to contact the officer who issued the notice.
- All written notices will have the officer's name, badge number and phone number. The first step to compliance is to correct the problem: mow the grass, move cars or trucks off the yard, move any junk vehicles, secure vacant buildings.

### **Exceptions to Notice of Violation**

### **International Property Maintenance Code**

- **Section 106.2 – Notice of violation.** The building official or its designee may serve a notice of violation detailing an existing violation; however a citation may be issued without prior written notification.
- **Section 106.4 – Violation penalties.** Any property owner, occupant or party of interest who violates any other property maintenance code within a twenty-four (24) month period shall immediately be issued a citation and subject to a fine of not less than five hundred dollars (\$500.00).
- **Sandy Springs Noise Ordinance – Hours of Construction Activity Generating Noise.**

### **Enforcement**

In an effort to safeguard the general health, safety and public welfare of the citizens of Sandy Springs, repeated and deliberate violations will be prosecuted vigorously without notice.

### **Grounds Maintenance Services**

- Remove Litter, Trash and Debris from Designated Routes
- Remove Temporary/Non-Permitted Signs from the Rights-Of-Way (ROW's)
- Remove and Dispose of Shopping Carts and similar items
- Remove Signs and Posters from Utility Poles and Public Facilities
- Remove Graffiti from ROW's (pressure wash or paint over)
- Pick up MARTA Trash Cans, Clean up Bus Stops and Service the City's 170 New Cans

### **Coordination with Other Agencies**

- Coordinate with the Public Utilities to Clean Up their Facilities and Work Sites on Public ROWs
- Coordinate with GDOT for the Prompt Clean Up of GA 400 and I-285 ROW Grounds

**Special Services**

- Saturday Sweeps for Temporary Signs on Saturday Mornings
- Two (2) Hour Call-Out Response Service for the City Manager (during M-F Business Hours)

**Discussion of Title Max, property located at 7250 Roswell Road.**

**City Attorney Willard** stated that Title Max applied for and received a permit to do renovations to the subject property, which was previously a liquor store and is in a subdivision, at Old Dalrymple/Roswell Road. Title Max came in and applied for the permits for the C-1 zoning. The property is close by to other zonings of C-2. They disclosed the fact that they were coming in as a business, referred to as Title Max. Title Max comes under a Business Classification as a pawn shop. Title Max would like to go forward with applying for rezoning for the property for C-2. That would be something for the Community Development Department, Planning Commission and City Council to determine whether or not it is appropriate to change the zoning. What has also been discussed is, allow them to be issued a Certificate of Occupancy on a temporary basis. Title Max would apply for rezoning and would agree that if the property was not zoned C-2, they would vacate the property and would not claim any damages against the city.

**Assistant Director of Planning and Zoning Zehner** explained the process in which this location was granted an occupational tax certificate. He stated that staff has subsequently received a rezoning application and has discussed with the applicant about reducing the timeline for his rezoning application to the shortest amount possible that is allowed under the city's ordinance. This will allow a Planning Commission meeting in April and the Mayor and City Council in May, normally it would have been a May Planning Commission and June, Mayor and City Council. This is where we are now.

Councilmember Greenspan questioned if the landlord had any liability.

David Flint, Represents Title Max stated that the lease was contingent upon the issuance of a business license. The business license was issued, also a pawnshop license, which has to go through the Police Department before being issued. Once the license was issued, the lease went into effect and Title Max started paying the rent. There is a provision in the lease that says; due to subsequent ordinances Title Max can not operate, but have a termination right which requires the payment of six (6) months, plus a \$45,000 termination fee, plus giving up the security deposit. If Title Max can not operate, then they can get out of the lease but, it will cost them \$92,000. Title Max has spent about \$100,000 on the new roof and other improvements on the building. It is a substantial loss to Title Max if they are not allowed to operate there. This property is right for redevelopment and the partnership is very much in favor of redeveloping that property. They have been unable to cancel the existing lease that A&P has been subleased to Big Lots. That lease is up in 2010. Every lease in the shopping center is tied to that date, including Title Max which, is for four (4) years. The landlord has a termination option on Title Max. If for some reason they can get the A&P lease canceled and redeveloped earlier then, they can cancel the Title Max lease on a 60 day notice. If Council allows this to go forward, Council will not be doing anything to prevent the redevelopment of this property. It is time for this property to be redeveloped.

Councilmember Paul questioned that since the business license was issued, if that triggered the lease and contract remain valid.

Mr. Flint stated that it was, and the lease is in effect. Councilmember Jenkins told him this morning that he couldn't get vested rights because the City made a mistake. He does not think the city is liable. He thinks the city could be responsible for negligence by issuing the business license and the pawnshop license because; it does not make the tenant liable to the landlord because they did get their permit. There could be a lawsuit between the landlord and the tenant but, he had rather be on the landlord side of that case.

**Discussion of adopting a new City Seal.**

**City Clerk Rowland** stated that this is a Resolution to adopt the new City Seal. The City Seal is a replica of the City's logo. The City Seal will go on Proclamations, Resolutions, Ordinances and any city document that is signed by the Mayor and City Manager.

### **Mayor and City Council Discussion Items**

#### **Discussion of Naming Rights for City Facilities**

Mayor Galambos stated that the Friends of Sandy Springs would like Council's guidance as to whether or not they would agree to naming rights should they get a donor to purchase a park. For example, if the City builds a City Hall and is financed by some private person, would the city be willing to call the City Hall using the donor name. Friends of Sandy Springs asked if they found a donor to pay for the Police Headquarters if they could name it after the donor.

Councilmember Jenkins stated that if we can do a project with UPS to help fund the improvements over the Tennis Center then she would be happy to put UPS name there.

Councilmember Greenspan stated that City Hall, Police and Fire Departments should not be for sale. He thinks Parks would be okay.

Councilmember DeJulio stated that the city could recognize the person because this is done all the time in different types of charitable organizations or non profit organizations.

Mayor Galambos stated the Council would be willing to give acknowledgment to the donor.

**Director of Communications and Media Parker** stated that the other thing the Friends of Sandy Springs is interested in knowing is how the city would value those items.

Mayor Galambos stated that the Council has said new recreation facilities are for sale. City Hall, Police Headquarters and the Fire Stations, all main buildings of the city are not. Mayor and Council would be happy to recognize names of donations of things inside the buildings.

#### **Discussion of the Sign Ordinance.**

Mayor Galambos stated that James F. Zakem, MD submitted a letter and did bring up some very good points. Council has a copy of the sign ordinance in packet. It shows that in every district, there is a provision that states you can have informational signs. The information signs are defined as 2 x 2, and can inform about anything. Mr. Zakem stated in his letter that the city has written this in the ordinance.

Councilmember Fries stated that a good majority of those signs are illegal anyway. They are in the right-of-way.

Mayor Galambos stated that the point is, these signs are not being removed because, they are legal and on private property. She questioned Ms. Leathers on how the two signs at the entrance were removed. The signs were on private property and were no longer in the right-of-way.

Councilmember Fries stated that they have to have permission to be on private property. Council adopted this new ordinance for a reason. It was said that City Council could come back at one time and tweak it.

**City Attorney Willard** stated that Council could do this at anytime. He suggested that this letter be forwarded to the Community Development Department and, from there to the next level for committee input. It is up to the courts as to what we can and can not do with control of signs, as far as the right of free speech. Informational signs fall into that category.

Mayor Galambos stated that Assistant City Attorney McLendon explained it to her and that it was another way of expressing "Freedom of Speech". She questioned where one would put a limit on how many times they can express Freedom of Speech on a property.

**City Attorney Willard** stated that there are limits. The City has the ability to limit it and how far to limit it.

**Director of Community Development Leathers** stated that there is an issue out there that is incredibly important and that has not been touched on. This is one of the reasons that the standard informational sign gets encompassed, including political signs. Staff has looked at the possibility of removing them from commercial properties but, then realized that if the city did that, then staff would not be able to address political signs. It will take more thought and consideration than just general discussion here to address this.

Councilmember Fries stated that she believes this is addressed in the ordinance.

**Director of Community Development Leathers** stated that Assistant City Attorney McLendon raised a good question. She does not think there is a simple solution. Staff can address the issue.

Councilmember Fries stated that she has issues with a couple of things. One, she is more concerned with the residential because anybody can have one 32 square foot sign in their lot and it can be anything they want. This bothers her and, the other is if they have a corner lot then they can have two.

**Assistant Director of Planning and Zoning Zehner** stated that those uses are allowed in single family district. There are only two types of Free Standing Signs, four foot square standards of informational sign allowed. It would be a sign for "Institutional" use or a 32 square foot sign for the subdivision for that 32 foot at 16 at either side of the entry.

Councilmember Fries stated that on residential they can only have informational signs.

**Assistant Director of Planning and Zoning Zehner** stated that they could have a construction sign. The purpose of the standard informational signs and the purpose of this ordinance is not to interpret content. Cecil McLendon was going towards allowing enough flexibility to meet that "Freedom of Speech" requirement but, allowing the city to be restrictive enough to meet the city's esthetic goals. There is some wiggle room. It does not say it has to be a construction sign but, the city is recognizing that a contractor should be able to advertise during a time when a house is being constructed and would allow that. A banner would be allowed and is larger than the standard informational signs and would have to be permitted and they do expire.

Mayor Galambos stated that Council would like for staff to address the issue and bring back recommendations.

Councilmember Meinzen McEnery questioned if it was true that Council patterned the sign ordinance on another municipality because it had been held up under a court test.

Mayor Galambos stated that we do not know if the city's ordinance would be held up if Council changed something.

Mayor Galambos stated that a lunch is set up with the School Board and Council at City Hall on the March 22, 2007 at noon.

**City Manager McDonough** announced that the City's Business License are due on March 31, 2007, and because that is on the weekend, the city has decided to extend the deadline to April 2, 2007.

**Motion and Vote:** Councilmember Paul moved to adjourn the meeting. Councilmember Fries seconded the motion. The motion passed unanimously.

**Work Session of the Sandy Springs City Council**

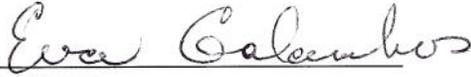
**Tuesday, March 13, 2007 at 6:00 PM**

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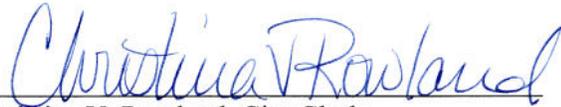
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After no further discussion, the meeting adjourned at 9:45 p.m.

Date Approved: April 17, 2007



Eva Galambos, Mayor



Christina V. Rowland, City Clerk