

Regular Meeting of the Mayor and City Council of the City of Sandy Springs was held November 21, 2006 at 7:00 p.m., Mayor Eva Galambos presiding.

Invocation

Dr. Bob Allred, Sr. Minister, St. John United Methodist gave the invocation.

Call to Order

Mayor Galambos called the meeting to order at 7:00 p.m.

Roll Call and General Announcements

Mayor Galambos requested that the City Clerk call the roll.

Interim City Clerk Rowland 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 at the conclusion of the meeting under the public comment section, are required to complete a public comment card. They are located at the back counter and need to be turned into the Clerk.

Councilmembers present: Councilmember Dianne Fries, Councilmember Karen Meinzen McEnery, Councilmember Dave Greenspan, Councilmember Ashley Jenkins, Councilmember DeJulio and Councilmember Rusty Paul.

Pledge of Allegiance

Mayor Galambos led the Pledge of Allegiance.

Approval of Meeting Agenda

Interim City Clerk Rowland stated that the first agenda item is the approval of the Meeting Agenda.

Motion and Vote: Councilmember Fries moved to approve the Meeting Agenda as presented. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion passed unanimously.

Consent Agenda

1. Approval of the October 17, 2006 Regular Meeting Minutes
2. Approval of the November 8, 2006 Regular Meeting Minutes
3. Approval of a Resolution approving and authoring an Intergovernmental Agreement with the City of Roswell for Mutual Aid for Fire and Emergency Medical Services.
Resolution No. 2006-11-93
4. Approval of a Resolution accepting a Right-of-Way Donation in Land Lot 19 of the 17th District (0.251 acres more or less)
Resolution No. 2006-11-94
5. Approval of a GDOT Project Management Agreement (PMA) for Sidewalk Construction along Hammond Drive and authorize the Mayor to Sign.
Resolution No. 2006-11-95
5. Approval of a Resolution authorizing the staff to prepare an application for a Recreational Trail Grant Program from the Georgia Department of Natural Resources.
Resolution No. 2006-11-96

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6. Approval of a Resolution that authorizes the staff of the Public Works Department to prepare for submission the application for a Livable Centers Initiative (LCI) Study Grant from the Atlanta Regional Commission (ARC).

Resolution No. 2006-11-97

7. Approval of a Resolution to Adopt the City of Sandy Springs 2007 Planning and Zoning Schedules

Resolution No. 2006-11-98

Motion and Vote: Councilmember Fries moved to approve the Consent Agenda. Councilmember Meinzen McEnerny seconded the motion. There was no Council discussion. The motion passed unanimously.

Presentations

Presentation by the National Council for Public-Private Partnerships

Rich Norment, representative of the National Council for Public-Private Partnerships congratulated the Mayor and presented the 2006 Innovation Award to Mayor Galambos, Rick Hirsekorn and Oliver Porter.

Proclamation for Sandy Springs Time Capsule

Mayor Galambos read the Proclamation for the Sandy Springs Time Capsule and presented it to Carol Thompson, representative of the Heritage Sandy Springs.

Public Hearings

Update and Public Hearing on proposed Ordinance to adopt a new Tree Conservation Ordinance and Administrative Standards and Best Management Practices

Interim City Clerk Rowland stated the next agenda item is an Update and Public Hearing on proposed Ordinance to adopt a new Tree Conservation Ordinance and Administrative Standards and Best Management Practices. This will be presented by Community Development Director Leathers.

Community Development Director Leathers stated that in July of this year Council authorized the beginning of the new Tree Conservation Ordinance for the City of Sandy Springs. We have obtained Ed Macie to prepare that and we have been working with him and his committee that were appointed by this Mayor and Council to assist us in preparing it. We originally had hoped that this would be a presentation for action but, we do not believe we have reached consensus on that with the city, the committee or the community. What we would like to do tonight is bring everyone an update and then open it up for public hearing so you can hear the comments of the community. Before turning the meeting over to Mr. Macie she outlines where they are on the ordinance. Our upcoming meetings are scheduled for the following dates; Advisory Committee Meeting, held at City Hall, December 11, 2006 at 7:00 p.m. The ordinance will be revised based on the information from the committee and then staff will come to City Council on January 9, 2007 at 6:00 p.m. at Work Session here at City Hall so that we will have the opportunity to get the input from the committee on that. Following that meeting two nights later, a tentative date at this point, January 11, 2007 at 7:00 p.m. we will have another public meeting at City Hall to offer people an opportunity after they have heard your comments and the Advisory Committee recommendations to make their final comments to the staff and to the committee. We will then have a follow-up meeting at the Advisory Committee to take those comments into account on January 22, 2006 at 7:00 p.m. at City Hall and then the ordinance will come before Mayor and Council on February 6, 2006 at 7:00 p.m. for action. Following Council's action there will then be a training session which is scheduled for February 12, 2006. It is intended to be a training session for both staff members on the new ordinance and also for people in the development community that wishes to know more about the ordinance and then the effective date of the ordinance will be March 1, 2007 under this proposed calendar. At the meeting that was held last night there were a series of concerns about the issue about trading tree credits and also a need to further define "historic trees". Include a reduction in size of landmark trees from 30 inches to 27 inches in the ordinance. A request to have the Tree Ordinance cover single family lots which

do not have any building permits. It's an indication of that compliance may not be sufficient in the ordinance for violators. There were a whole series of questions about the use of trees in right-of-way and how this program that came out of this ordinance could be applied to trees in right-of-way. There was a request to include some secondary smaller trees and shrubs such as dogwoods and mountain laurels and calculations in the ordinance. There were a number of people who asked for a Tree Board as opposed to the Board of Zoning Appeals as an appellate body for this ordinance. There was a request to provide additional protection for landmark trees in the buildable area of single family lots. Discussion about a need for additional protection boundary trees and a request that pine trees be included back into the ordinance. Some discussion of protection of trees in the watershed areas particularly those that would flood. There was a request to require a canopy study as a baseline within the ordinance for future monitoring of the canopy within the city, a request of adequacy of staffing of the Arborist positions in the city. Some indication that the adoption process was moving too quickly and one comment that the tree ordinance is written as too pro-developer. Those were the major comments received last evening. She turned the general description of the ordinance over to Ed Macie so he can describe where we are now.

Ed Macie, ASLA has been assisting the task force in developing a new ordinance. First he would like to discuss the changes that are in this document compared to the one that Council looked at last month then run through briefly. Then from there have public comment. During the Work Session last month there was a considerable discussion of the accountability of single family homes that are not going to permit and whether or not they should in ordinance at all. It seems as though there was close to consensus on the Council and the majority of comments he got back was that Council was of the opinion that shouldn't be in the ordinance so he pulled that out. Secondly, he kept hearing that there should be some type of incentive to keep trees on properties and since we are taking a canopy base approach with the ordinance he created a section in there similar to what you would call a cap and trade system so that if developers exceeded the very aggressive canopy requirement on the property then they are entitled for compensation for that access of canopy and if they fall below that aggressive canopy standard then they would have to pay for those canopy shortages. The part of the thinking behind this is one, it is innovative and potentially in the long run could create a market atmosphere in which developers are actually working to exceed the requirement and perhaps trading their excess amongst themselves and putting some value to it. In taking this approach also debunks one of the issues he has heard repeatedly through the process and that is the tendency for homeowners to clear their property in advance of a property sale knowing that the tree ordinance may encumber the future owner if they are redeveloping on that site. What this does is put an immediate value to the canopy so that builders and developers would want the property with the trees because they would have potential to work with the trees there rather than not. The value that we establish these canopy credits are based on the purchase price of new trees including transportation planting, three years of maintenance and ecosystem values specially, Storm Water Management values and air pollution removal values over a 20 to 30 lifetime of the tree. That dollar amount comes out to \$1,500 per thousand square feet of canopy and that is what this whole thing is based on. The very significant difference was completion of Best Management Practices in the ordinance. These are practices that are addressed in the tree conservation of protection and how to plan for tree conservation, how to implement it and what some of the follow-up might be, the selection of plants, tree and landscape plant material, standards for selecting quality landscape material and planting standards and finally tree maintenance standards, tree pruning, mulching, solar environment and things like that. He heard repeatedly through the process that most people want to do the right things with trees, they just don't know what the right thing is so that was included in the standards. The way the whole thing breaks out is you have the ordinance which primarily focuses on changing land use, building additions, and home construction. It also focuses on saving trees, conserving trees in building construction in land development with the focus on canopy because canopy is the measurable thing that we have in our urban forest that we can attribute to the environmental quality.

Administrative Standards which outline procedures in how the ordinance is implemented and then specific standards regarding landscape strips, buffers and parking and then the Best Management Practices. This is where we are now. He stated that he almost feels like we are falling in the middle of most people's opinion so he has a sense that we are on the right track.

Mayor Galambos called for Council comments.

Councilmember Meinzen McEnery questioned whether or not there is protection for landmark trees in this ordinance.

Mr. Macie stated that is the one thing that applies to single family homeowners that are not permitting.
Councilmember Meinzen McEnery questioned the definition of Landmark Tree.

Mr. Macie read the definition of Landmark Tree – “Any hardwood tree 30 inches dbh or larger in fair or better condition having a life expectation of greater than 5 years and which sits on a property undergoing activities to which the term and provisions of the Sandy Springs Tree Conservation Ordinance apply.” This is a definition that bares some clarification that was the definition that was first established when we had the inclusion of single family. Even though removal of landmark trees still requires a permit even if there is no other permitting activity on the property.

Councilmember Meinzen McEnery stated that she did not understand the clarification of “as long as it sat on a lot that was undergoing activities”. She suggested striking that last clause and defines it as one that is 30 inches, etc. Mr. Macie said that is an editorial correction but agrees with her.

Michael Barnett stated that by Fulton County’s ordinance, a hardwood tree is 27 inches and for a Pine or Beach tree is 24 inches, and those such as Dogwoods, Redbuds and Sourwoods is 10 inches in diameter or larger.

Mr. Macie stated that after hearing comments he feels that he can revise the definition to include smaller sized trees and they intentionally left those out because the focus of the ordinance is on canopy and now we are referencing non canopy trees. He does not think it will make appreciable difference in the ordinance. As for size, it really does not matter whether it is 27 inches or 30 inches. The growth curve on trees starts to slow down around 30 inches. The focus of the ordinance is on canopy.

Councilmember Jenkins questioned the size of replacement trees.

Mr. Macie stated the canopy requirements are established in the Administrative Standards and Best Management practices for Sandy Springs Urban Forest.

Councilmember Meinzen McEnery stated that these are just suggested practices to educate the community on what are best practices relating to their maintenance. It is not a requirement that a single family homeowner cannot prune their trees. She asked for Mr. Macie’s interpretation of *Section 5, Procedures*. It discusses the constraints on the development community and/or the single family homeowners pulling a permit. It reads that “the removal of landmark trees will be permitted only if the tree is located within the buildable area of a lot or is outside the buildable area of a lot and the Sandy Springs Arborist determines that no alternative construction or mitigating site of corporal practices will prevent destruction of the tree. She asked for clarification.

Mr. Macie stated that if a site plan necessitates them removing every tree inside buildable area that would be the case. He would not say there are no constraints because the whole approach is to develop plans and work with the builders and developers and identify opportunities to save trees. What this does is identify every tree on the property that is 12 inches in diameter whether inside or outside the buildable area. If dependency to build from setback line of setback line exist then it will be difficult to save trees inside the buildable area of the lot.

Councilmember Meinzen McEnery stated that in the upcoming discussion we may want to say that “anything within the buildable area of the lot” talking about landmark trees. It will require the Arborist to work with that developer on landmark trees. She would like to strike a few phrases in there but, can work on that at the appropriate time.

Mayor Galambos thanked Mr. Macie for his update.

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City Attorney Willard introduced Kate Edward and Meaghan Brantley, both from Wesleyan High School. They are here tonight as a part of their project for their U.S. Government Class and will be attending future meetings to learn more about how a government works.

Mayor Galambos stated she has heard quite a few comments about the tree ordinance from both sides. She read a poem written by Joyce Kilmer regarding Trees. She thinks it would put a good turn on the meeting.

Mayor Galambos called for public comments.

Bill Harrison, 4880 Northside Drive, supports about 75% of the proposed ordinance. He is an architect and he is not in favor of the "trading of credits" and has never seen this put in other city ordinances. He also feels that the City of Sandy Springs needs to look into creating a Tree Board.

Chris Cramer, 5280 Long Island Drive, President of the Long Island Coalition, he feels there are too many loop holes in this proposed ordinance. He would like to see the Pine trees put back in, a canopy study done, added staff and a Tree Board for Sandy Springs. He feels that more time is needed on this ordinance before the Council votes.

Helen McClure, 5271 Lake Forrest Drive, feels that the City of Sandy Springs should have a strict penalty set in the Ordinance for violations of trees.

Beverly Seagraves, 280 Burdette Road, expressed concerns on all the trees that are coming down around Sandy Springs.

Daniel Berger, 7000 Faunworth Drive, member of the Tree Advisory Committee, and on Council of Neighborhoods for North Springs residents. He is on this committee because he would like to preserve this town's beauty. There are some improvements this ordinance still needs. It is still too easy to pay to cut. The diameter of landmark trees should be reduced from 30 inches to 27 inches. Homeowners should be included, with the 20 percent exemption. The ordinance needs to require a canopy study soon. Most tree ordinances take a year to draft. Sandy Springs Committee were only given two months beyond the February 6 target to give them enough time to perfect the current work, to consider these and other refinements, and to deliver a really good ordinance for Council's consideration. The city needs a tree board, to take the burden off the zoning board and it should be left to the city staff. It needs to be a public procedure.

Gary Unell, 5 Highland Valley Court, stated he was selected to be on the Advisory Committee and is a Sandy Springs resident and a builder and developer. He was glad to serve on the committee and thinks it was a good committee to be on and will continue to work with the committee and Council to try to get an ordinance that is fair for developers, builders and also homeowners. He agrees with about 90% of the draft ordinance but, disagrees with the last 10% which with a deferral he thinks this can be worked through in meetings.

Steward Weinhoff, 5210 Northside Drive, stated he is member of the Tree Advisory Committee and the only difference he sees in this proposed ordinance and the previous one is that this one offers more protection, everything outside the build able area is now protected. He does not think it really matters if the rules and regulations apply to homeowners or not.

Richard Farmer, 6080 Glenridge Drive, stated the ordinance will save trees if the City does it right. He believes that it is important for the city to have a Tree Board. He also thinks the homeowners need to be included with the developers in the rules and regulations of the ordinance.

Anna Hirsch, 4690 Huntley Drive, spoke in opposition of the proposed ordinance. She feels the city just needs to have a moratorium at this time.

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Nina Cramer, 5280 Long Island Drive, stated that trees are our most valuable resource here in Sandy Springs. Our Urban Forest affects all of us. Trees are a natural air purifier and heat purifier and noise buffer, a soil stabilizer, a wind buffer, a wildlife habitat and they increase property values. The City Council has a unique opportunity to put in place a good strong Tree Ordinance to protect our Urban Forest. This Tree Ordinance will be the City of Sandy Springs legacy for the future generations and all of you who have been voted for have promised to protect Sandy Springs. Now is City Councils chance to deliver promise. This ordinance is the most single issue that will become before this Council and will define how Sandy Springs will look in the future.

Bruce Capps, 365 London Ferry Road, expressed concerns regarding the definition of “canopy”.

Beverly Seagraves, 280 Burdette Road, asked that City Council stay within the footprints of the homes that are there now.

Trisha Thompson, 145 River North Drive, expressed her concerns about the ordinance and feels it needs to be stricter like Fulton County’s is. Fulton County’s fines for tree violations are very high.

Mayor Galambos stated there have been a lot of comments on clear cutting tonight. She asked Mr. Macie to address to what extent this new ordinance as its worded would prevent clear cutting.

Ed Macie stated that it is suggesting that every tree 12 inches and bigger start out as a protected tree on the property. The first rule of engagement with the Arborist and the builder is to consider every tree on the site before they begin. Secondly, this canopy approach, the whole idea is to think of tree canopy as a growing dynamic thing. The canopy trade system really is not intended to be a pay to cut system. Before the developer begins they should be provided with an incentive to keep trees. It actually provides an incentive to keep trees on the property. The developer is going to have to provide that canopy which is very aggressive; we are shooting for 50% canopy per lot on single family residential. If they exceed that 50%, they will get \$1,500 back for every thousand square feet that they exceed. If they fall below the mark they have to pay in. It is an aggressive approach providing some incentives.

Mayor Galambos asked if this proposed ordinance protect trees in the part of the lot that is not the buildable lot that means if you are protecting the trees in the periphery part that you are preserving and not clear cut.

Ed Macie stated that is correct. Some of the difficulty has been suggested that if you have a very large tree that is outside of the buildable portion of the lot with the majority of its roots inside the buildable portion of the lot, it is just the part underground that you cannot see and that is where you run into problems a lot of the time when the lot is built from setback to setback line. What this ordinance does is purge you the opportunity to do everything you can do to save the tree first, looking at alternative construction practices, tree damage mitigation practices, site designs in decisions of moving a tree.

Mayor Galambos announced there would be another meeting before City Council on this ordinance in early January 2007.

Unfinished Business:

There were no unfinished business items.

New Business:

**Approval of an Ordinance to adopt and approve a Nuisance Abatement Ordinance
Ordinance No. 2006-11-87**

Interim City Clerk Rowland stated the next agenda item is an Ordinance amending Chapter 15, Health and Public Safety by adding Article III, Nuisance Abatement of the Code of Ordinances of the City of Sandy Springs, Georgia. This will be presented by Community Development Director Leathers.

Community Development Director Leathers stated that this ordinance that was discussed at Work Session which is intended to provide the basis of being able to deal with difficult property. We are enforcing property maintenance code and are unable to locate owners and there maybe a public safety issue on the property and there is a need to go through a process to correct something on the site with City funds and then to go through the court process to permit us to do that and later place a lien on the property to correct those funds. Staff has worked with the City Attorney and staff looks forward to working in this process. She feels it will help them in difficult cases.

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

Motion and Vote: Councilmember Fries moved to adopt and approve an Ordinance to amend Chapter 15, Health and Public Safety by Adding Article III, Nuisance Abatement of the Code of Ordinances. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion passed unanimously.

Approval of an ordinance amending the City of Sandy Springs Code of Ordinance Chapter14, Land Development and Environmental Protection, Article 3, Floodplain Management/Flood Damage Prevention - Section 1 (d)(i): FIS date – Article 3, Section 2 (l)(m)(hh)(ii): Definitions. Add page numbers to the Ordinance.

Ordinance No. 2006-11-88

Interim City Clerk Rowland stated the next agenda item is an Ordinance amending Chapter 14, Land Development and Environmental Protection, Article 3 Floodplain Management/Flood Damage Prevention Ordinance of the Code of Ordinances of the City of Sandy Springs, Georgia. This will be presented by Community Development Director Leathers.

Community Development Director Leathers stated this is an ordinance amendment required by the Department of Natural Resources in order to ensure that we are in compliance with their Floodplain Regulations. It is technical in nature and staff asks that this Ordinance be approved.

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

Motion and Vote: Councilmember DeJulio moved to adopt and approve an Ordinance to amend Chapter 14, Land Development and Environmental Protection, Article 3, Floodplain Management/Flood Damage Prevention - Section 1 (d)(i): FIS date – Article 3, Section 2 (l)(m)(hh)(ii): Definitions. Add page numbers to the Ordinance. Councilmember Jenkins seconded the motion. There was no Council discussion. The motion passed unanimously.

Reports and Presentations

Mayor and Council Reports

Mayor Galambos announced that the Sandy Springs Fire Trucks will be here next week.

Staff Reports

Director of Financial Services Rapson reported that a Budget Public Hearing will be held on December 5, and December 19 with final approval on the December 19, 2006. He also reported that the Franchise Agreements will be on the December 12, 2006 Work Session.

Community Development Block Grant Manager McNeill gave a report on the Comprehensive Land Use Plan and announced there would be several meetings held. ARC will need to approve the City of Sandy Springs plan.

Public Comment

Patty Berkovitz, 800 Crest Valley Drive, stated that for those of them dealing with zoning special use permits and variances on a regular basis it has come to their attention over and over that we are gradually operating more and more like Fulton County. She asked Council to redirect the staff and the city back to the values of the people of this city to directive that we not be what we were with Fulton County when they were in charge. She does not believe that staff should be assisting builders and developers in how to get around zoning regulations in order to accomplish their goals for the site. They should not be helping to find creative solutions to siting things that should not sit on property. They should be encouraging projects that fits the site and not reading and interpretations the regulations in their most lenient way but in their strictest form. That is what the people of this city wanted, strict interpretation of the rules but that is not what they are getting. That was a huge problem with Fulton County and she hopes that we have learned from our experiences. It has been reported to her that resolution meetings had at Planning Commission meetings and during Council Meetings staff gets up and coaches the developers on how they might get around this or around that. It is the beginning of a trend and they hope the city redirects its tone at which staff deals with these situations.

Mayor Galambos stated that she just made a serious accusation. For us to be diligent, she asked Ms. Berkovitz to give her particulars.

Adjourn

Motion and Vote: Councilmember Greenspan moved to adjourn the meeting. Councilmember Fries seconded the motion. There was no Council Discussion. The motion passed unanimously.

After no further discussion, the meeting adjourned at 8:40 p.m.

Date Approved: December 5, 2006


Christina Rowland, Interim City Clerk


Eva Galambos, Mayor