

Regular Meeting of the Mayor and City Council of the City of Sandy Springs was held October 17, 2006 at 7:00 PM, Mayor Eva Galambos presiding.

Invocation

Dr. Terry Quick, Senior Pastor, Sandy Springs First Baptist Church gave the invocation.

Call to Order

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

Roll Call and General Announcements

Mayor Galambos requested that the City Clerk call the roll.

City Clerk Marchiafava 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 in to the Clerk.

City Clerk Marchiafava introduced and welcomed the City of Sandy Springs Pages, Tyler Harrison, Sarah Monahan, and Jasmine Majors from The Atlanta Academy.

City Clerk Marchiafava called the roll.

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

Pledge of Allegiance

City of Sandy Springs Pages led the Pledge of Allegiance.

Approval of Meeting Agenda

City Clerk Marchiafava stated the first agenda item is the approval of the Meeting Agenda.

Motion: Councilmember DeJulio moved to approve the meeting agenda with the following additions to the Regular Agenda:

1. Approval of the initiation of a sign variance for the City of Sandy Springs to install a monument sign for City Hall.
2. Approval of the initiation of a rezoning by the City of Sandy Springs for property known as Mount Vernon Village.

Second and Vote: Councilmember Fries seconded the motion. There was no Council discussion. The motion passed unanimously.

Consent Agenda

1. Approval of the September 5, 2006 Regular Meeting Minutes
2. Approval of the September 12, 2006 Work Session Minutes
3. Approval of the September 19, 2006 Regular Meeting Minutes
4. Approval of an Amended Intergovernmental Agreement with Fulton County for Emergency 911 Communication Services.
5. Approval of a Resolution changing the classification of the position of Finance Director.
Resolution No. 2006-10-87
6. A Resolution Approving Participation in the Georgia Mutual Aid Group (GMAG).
Resolution No. 2006-10-88

7. Resolution to Adopt the City of Sandy Springs Fire District Map.
Resolution No. 2006-10-89
8. Approval of a Lease Agreement for the Occupancy and Use of Fire Station 39 and Agreement for Mutual Aid and Automatic Response between the City of Atlanta and the City of Sandy Springs
9. Approval of a Resolution Accepting the Right-of-Way in Land Lot 19 of the 17th District (.017 acres more or less) being donated by Swanblossom Investment Limited Partnership
Resolution No. 2006-10-90
10. Appointment of Christina V. Rowland as Interim City Clerk for the City of Sandy Springs.

City Clerk Marchiafava stated that the next agenda item is the approval of the Consent Agenda.

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

Presentations

Special Recognition of the Sandy Springs Communications Department as the recipients of the Golden Flame Award from the International Association of Business Communicators (IABC) for the City's website.

Mayor Galambos announced that staff has received an award by International Association of Business Communicators for their outstanding development of the city's website. Staff received an award for their outstanding development of the City's website. Mayor Galambos thanked staff for all their great work.

John McDonough, City Manager recognized City Clerk Jeanette Marchiafava for all her hard work in setting up the City Clerks office. Ms. Marchiafava will be leaving the city to move on to another opportunity. Appreciation was expressed to her for all the work has done. Mr. McDonough thanked her for a great job well done.

Public Hearings

Zoning Agenda

RZ06-041/CV06-028 – 5392 Powers Ferry Road, Meredith and Jason Russell, from R-1 to R-2A for the development of two (2) single family lots. (First Reading)

City Clerk Marchiafava read the zoning rules and stated that the next agenda item is RZ06-041/CV06-028. Property located at 5392 Powers Ferry Road. This is the First Reading of an Ordinance to rezone property from R-1 (Single Family Dwelling District) to R-2A (Single Family Dwelling District) for the development. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the Planning Commission will hear this item this Thursday, October 19, 2006. Mayor and City Council will hear this item as a second reading on November 8, 2006.

Mayor Galambos called for public comment.

Susan Blank, 5350 N. Powers Ferry Road, asked for clarification on the zoning request. The homeowners in their subdivision opposed the rezoning.

Richard Pawliger, 5425 Powers Ferry Road, stated he lives directly across the street from this lot and is opposed to this rezoning.

Bruce Boehnlein, 5370 N. Powers Ferry Road, asked for clarification on the zoning.

Assistant Director of Planning and Zoning Zehner stated that is not correct. The zoning district classification R-2 and R-2A could have divided the property into two lots either way.

RZ06-042 – 4986 and 4994 Long Island Drive, Design Construction by Craftmaster, Inc., from R-2 to R-2A for the development of three (3) single-family lots. (First Reading)

City Clerk Marchiafava stated that the next agenda item is RZ06-042 and is the First Reading of an Ordinance to rezone property from R-2 (Single Family Dwelling district) to R-2A (Single Family Dwelling district). The property is located at 4986 and 4994 Long Island Drive. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the Planning Commission will hear this item this Thursday, October 19, 2006. Mayor and City Council will hear this item as a second reading on November 8, 2006.

Mayor Galambos called for public comment.

Chris Cramer, 5280 Long Island Drive, stated that he is speaking on behalf of the Long Island Drive Coalition and expressed their opposition of any rezoning in this neighborhood. This is a developed community. He asked the City Council to stick to the Land Use Plan.

RZ06-043 – 4975, 4985, 4995 Lake Forrest Drive, Mike Hill from R-3 and R-4 to R-4 for the development of five (5) single-family lots. (First Reading)

City Clerk Marchiafava stated that the next agenda item is RZ06-043 is the First Reading of an Ordinance to rezone property from R-3 (Single Family Dwelling District) and R-4 (Single Family Dwelling District, property located at 4975, 4985, 4995 Lake Forrest Drive. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the Planning Commission will hear this item this Thursday, October 19, 2006. Mayor and City Council will hear this item as a second reading on November 8, 2006.

Mayor Galambos called for public comment.

Nina Cramer, 5280 Long Island Drive, Long Island Coalition is opposed to rezoning in their neighborhood.

Valerie Lutjens, 28 West Belle Isle Road, stated there are several creeks and streams that run underground on this property and to rezone this property would put houses on top of the stream. Expressed how it would severely disrupt possibly flood her entire home. She asked that City Council not approve this rezoning.

RZ06-044/CV06-029 – 9670, 9680, 9710 Roberts Drive, Dave Lefkowitz and Sam Katz from CUP to A for the development of 41 townhouse units. (First Reading)

City Clerk Marchiafava stated that the next agenda item is RZ06-044/CV06-029. The First Reading of an Ordinance to rezone property from CUP (Community Unit Plant District) to A (Medium Density Apartment District. Property located at 9680, 9710 Roberts Drive. This will be presented by Assistant Director of Planning and Zoning Zehner.

Assistant Director of Planning and Zoning Zehner stated that the Planning Commission will hear this item this Thursday, October 19, 2006. Mayor and City Council will hear this item as a second reading on November 8, 2006.

Mayor Galambos called for public comment.

Lauren McDow, 9670 Roberts Drive, supports rezoning. Expressed how the development would be great for the community and would improve the safety, value, and appearance of the area.

David Walker, 45 Serendipity Way, expressed concern about the property value going down. She would like for the zoning to remain the same. She believes this would increase their property value in their neighborhood.

Unfinished Business:

City Clerk Marchiafava stated that there is no unfinished business.

New Business:

**Approval of an Ordinance Adopting Chapter 6, Code of Ethics and Standards of Conduct.
Ordinance No. 2006-10-14**

City Clerk Marchiafava stated that the next agenda item is a reading of an Ordinance to adopt and approve Chapter 6, Code of Ethics and Standards of Conduct.

Assistant City Attorney McLendon, stated this item of business is Code of Ethics and Standards of Conduct. This is an Ordinance which Council approved to develop through appointment of a citizen committee.

Councilmember Meinzen McEnery referred to Page 2, Section 1, subsection 5 of the proposed ordinance. It reads that in adopting this ordinance the city recognizes "in the City it is possible and reasonable to **require** public servants to engage in employment, professional or business activities and to maintain investments which do not impede or undermine the integrity of their service to the City." It seems to indicate that there is a requirement of public servants to be employed. She would prefer that it read in the City it is possible and reasonable (delete the words to require and substitute that public servant's may engage in employment, professional or business activities and to maintain investments which do not impede or undermine the integrity of their service to the City. It should not require that public servants be employed.

Assistant City Attorney McLendon stated this is the recommendation that has come forward. After discussion if there is a motion to amend then Council to adopt the amendment he would be happy to prepare it as City Council directs.

Motion and Second: Councilmember Paul moved to approve an Ordinance to Adopt and approve an Ordinance relating to Ethics and providing for their inclusion and identification in the Code of Ordinances for the City of Sandy Springs, GA to be referenced in the future as Chapter 6, Ethics, as attached hereto and incorporated herein. Councilmember Fries seconded the motion.

Motion to Amend No. 1 and Second: Councilmember Meinzen McEnery moved to amend the proposed Ordinance by rewording Section 1(c)(5) as follows: In the City it is possible and reasonable that public servants may engage in employment, professional or business activities and may maintain investments which do not impede or undermine the integrity of their service to the City. Councilmember Jenkins seconded the motion.

Withdrawal of Motion and Second: Councilmember Meinzen McEnery withdrew her motion to amend.

Motion to Amend No. 2 and Vote: Councilmember Meinzen McEnery moved to delete section 1(c)(5) in its entirety. Councilmember Jenkins seconded the motion. The motion passed unanimously.

Motion to Amend No. 3 and Second: Councilmember Jenkins moved to amend Section 12, regarding appointments to the Board, so that it read that members of the Board are appointed as follows: each Councilmember submit two names for a pool in which names are drawn from if there is a complaint filed. Those names submitted by the person whom the complaint is filed against would be removed from the pool and are not eligible to sit on the panel. Councilmember Greenspan seconded the motion.

Discussion on the Motion: Councilmember DeJulio stated that our City Charter states that the Mayor shall appoint boards and committees. His question to the Assistant City Attorney was if Council could consider making such a change without changing the City's Charter.

Assistant City Attorney McLendon explained that prior to making that change and this becoming an effective ordinance it would require an amendment to the Charter. They would have to run in conjunction with each other.

Councilmember Greenspan stated that it may or may not because if the protocol Councilmember Jenkins spoke of is acceptable to the Mayor and the Council the Mayor may make the appointments of that protocol. If the Mayor said each Councilmember nominate two and then she made the appointment and Council made the approval then we would not need a Charter change to move forward.

Assistant City Attorney McLendon explained that under that scenario if it was his consent and everyone agrees on it, they might not even need to amend the ordinance. It could be done in anyway Council wants. If however, our ordinance was going to read something that was at odds then an amendment to the Charter would be necessary. If there were some consensus as to how the Mayor would choose who she nominated and that went forward that would not even require an amendment to this ordinance as long as it went under some of the same terms as separate from here with some other approach to bringing forth the candidates.

Councilmember Greenspan explained the reason he is in favor of Councilmember Jenkins proposal does not have anything to do with the Mayor's authority but, more to do with the fact that corporations as an example set up an independent audit committees for the purpose of being able to be objective. As such, he believes this is equally as important to the city that we consider a divesting in this ethics situation the selection of the committee members to do that of the Council.

Assistant City Attorney McLendon stated that what we are talking about areas of the Charter that effect that have a government take place and it affects the structure of government. If you went into the Charter and were modifying and amending the Mayors powers which is the critical issue in the establishment of the City Government you would have to go through the Home Rule Act.

Mayor Galambos stated the question is will it require a referendum.

Assistant City Attorney McLendon explained in the form of our government Council may not be able to do that with just two readings. He will research the issue and will get back to Council.

Councilmember Meinzen McEnerny stated she had already asked Mr. Willard same question and he said if it was something changing the Mayor's power it had to go to referendum.

Motion to defer: Councilmember Meinzen McEnerny moved to defer this item. Councilmember Jenkins seconded the motion. The motion failed 3-4 with Councilmember Fries, Councilmember Paul, and Councilmember DeJulio voting in opposition. Mayor Galambos broke the tie voting in opposition of the motion.

Vote on Amendment No. 3: The motion failed 3-4 with Councilmember Fries, Councilmember Paul, and Councilmember DeJulio voting in opposition. Mayor Galambos broke the tie voting in opposition of the motion.

Mayor Galambos stated this is not a question of the Mayor using his or her power of appointment. This is a question of the Mayor proposing names under a charter that the Council then can vote up or down. That calls for direction of our charter.

Vote on Main Motion: The motion passed unanimously.

Approval of an Ordinance Adopting Chapter 18, Assemblage in Public Places.
Ordinance No. 2006-10-82

City Clerk Marchiafava stated that the next agenda item is an approval of an Ordinance approving Chapter 18. This is an reading of an Ordinance to adopt and approve Ordinance relating to Assemblage in Public Places and providing for the inclusion and identification in the Code of Ordinances for the City of Sandy Springs, GA to be referenced in the future as Chapter 18, Assemblage in Public Places. This will be presented by Assistant City Attorney McLendon.

Assistant City Attorney McLendon stated that this is an ordinance which has been prepared basically to regulate the Public Assembly within the city. This is a common ordinance which most city's have in place and allows for a permitting process to go through primarily directly by the City Manager in coordination with other city departments to ensure the process of approving and carrying out of these type of activities.

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

Motion and Vote: Councilmember Paul moved to approve an Ordinance to adopt and approve an Ordinance relating to Assemblage in Public Places and providing for inclusion and identification in the Code of Ordinances for the City of Sandy Springs, GA to be referenced in the future as Chapter 18, Assemblage in Public Places, as attached hereto and incorporated herein. Councilmember Fries seconded the motion. The motion passed unanimously.

Approval of an Ordinance Adopting Fire Codes for the City of Sandy Springs.

City Clerk Marchiafava stated that the next agenda item is an approval of an Ordinance adopting Fire Codes for the City of Sandy Springs. The reading of the Ordinance is to adopt and approve an Ordinance relating to Public Safety and providing for inclusion and identification in the Code of Ordinances for the City of Sandy Springs, GA to be referenced in the future as Chapter 15, Public Safety. This will be presented by Fire Chief McElfish.

Fire Chief McElfish introduced the City's new Senior Deputy Chief Fire Marshal, Jeff Scarborough. Jeff worked for him in Clayton County and was a Fire Marshall there for seven years. He introduced David Adams, a registered architect. David is in charge of over 16,000 state buildings. These two gentlemen will do more for fire safety for this community. They are very dedicated and talented and will do a great job for Sandy Springs.

We have all types of buildings in our community. We want to have a smoke detector in the sleeping area and one outside the sleeping area.

Councilmember Fries inquired about 1.11.6 which states "There shall be early fire detection systems in all sections multifamily occupancies." Sometimes our ordinances get where you have no clue when it leads to too much interpretation. If we can clean this up by saying "All sections per International Code of multifamily".

Fire Chief McElfish had no objection.

Motion and Second: Councilmember Paul moved to approve an Ordinance to adopt and approve an Ordinance relating to Public Safety and providing for inclusion and identification in the Code of Ordinances for the City of Sandy Springs, GA to be referenced in the future as Chapter 15, Public Safety, as attached hereto and incorporated herein. Councilmember Fries seconded the motion.

Motion to Amend No. 1 and Vote: Councilmember Fries moved to amend Section 1.11.6 of proposed ordinance to read: There shall be early fire detection systems in all sections, per International Code. Councilmember Jenkins seconded the motion. The motion passed unanimously.

Motion to Amend No. 2 and Vote: Councilmember Fries moved to remove in its entirety Section 1.11.5 of the proposed ordinance. Councilmember Jenkins seconded the motion. The motion passed 4-3 with Councilmember Fries, Councilmember Greenspan, and Councilmember Jenkins voting in favor. Mayor Galambos broke the tie voting in favor of the motion.

Mayor Galambos stated that she would like to have data about Sandy Springs on what kind of fires we have. She wants data about our kinds of houses in Sandy Springs, what kind of fires do we have so we can act intelligently on what the situation is in our community.

Motion to Amend No. 3 and Vote: Councilmember Fries moved to amend Section 1.11.3 to include a reference to NFPA 13R. Councilmember Jenkins seconded the motion. The motion passed unanimously.

Motion to defer: Councilmember DeJulio moved to defer this item for further discussion. Councilmember Fries seconded the motion. The motion passed unanimously.

Approval of a Resolution Appointing Members to the Sandy Springs Board of Ethics.

City Clerk Marchiafava stated that the next agenda item is an approval of a Resolution Appointing Members to the Sandy Springs Board of Ethics.

Mayor Galambos recommended the following Appointments to the Board of Ethics.

Post 1 – Al Reddick, Post 2 – Charles Maddrey, Post 3 – Jim Langlais, Post 4 – Nancy McCord and Post 5 – Glenn Moffett. Alternates recommended are Andrew Heyward and Richard Isenberg.

Motion and Vote: Councilmember DeJulio moved to approve a Resolution appointing members to the Sandy Springs Board of Ethics. Councilmember Fries seconded the motion. The motion passed unanimously.

Approval of the initiation of a sign variance for the City of Sandy Springs to install a monument sign for City Hall. (Added by motion and vote)

City Clerk Marchiafava stated that the next item has been added to the agenda. This is an initiation of the City Hall sign variances. This will be presented by Community Development Director Leathers.

Director of Community Development Leathers stated in order for us to permit the signs for City Hall we need to do the appropriate variances before the Board of Zoning Appeals. Staff requests Council to initiate that.

Motion and Vote: Councilmember DeJulio moved to approve the initiation of a sign variance for the City of Sandy Springs to install a monument sign for City Hall. Councilmember Fries seconded the motion. The motion passed unanimously.

Approval of the initiation of a rezoning by the City of Sandy Springs for property known as Mount Vernon Village. (Added by motion and vote)

Councilmember Paul stated that he would like to initiate a rezoning for Mount Vernon Village. This is a technical amendment to the suburban village because they have a density of 68 and because of a situation of two people wanting to sell their units and to do so it would create 70 units. So therefore we have to rezone this piece of property to allow these people to sell these units. He would like to initiate that process.

Motion and Vote: Councilmember Paul moved to approve the initiation of a rezoning by the City of Sandy Springs for property known as Mount Vernon Village. Councilmember Fries seconded the motion. The motion passed unanimously.

Reports and Presentations

Mayor Galambos stated that in the news today Newell Rubbermaid announced that they are going to have their national headquarters here in Sandy Springs. They are going to be a wonderful corporate Fortune 500 addition to our community. The building is going to be at Glenlake next to the lake and will break ground in 2007.

Councilmember Jenkins stated she had her town hall meeting last night and a little over 100 people showed up in the rain. She thanked the staff that attended to help answer questions. Angela was there to present the CIP and did a fantastic job. She appreciates all of staffs help. We had a great turn out and the meeting went great.

Update on Comprehensive Plan

Director of Community Development Leathers stated that Vann McNeill will present this item. We have moved over the Management Comprehensive Plan to Vann and we will be presenting the monthly report on the status of the Comprehensive Plan on where we are in the process and what is left to be done.

Community Development Block Grant Manager Vann McNeill gave a status report on the Sandy Springs Comprehensive Plan, providing a timeline for completion.

Mayor Galambos asked if there was anyway we could move up the Impact Fee Ordinance.

Community Development Block Grant Manager Vann McNeill stated that is guided by the State's rules. He will check on that.

Director of Community Development Leathers stated the difficulty with moving up the Impact Fee Ordinance is the fact that you also have to have a plan for bringing your existing Street System Standards and that is part of the Transportation Plan which is part of the Comprehensive Plan. It may be difficult to move it up very much. We can try but believes it will be somewhat difficult.

Mayor Galambos stated that if there is anyway it could be done we would all be very supportive. We are starting all of these aspects of the Comprehensive Land Use Plan and the Transportation Plan and all the components already in 2006 and it's a whole year from now that we are going to look at adopting the Impact Fee. That is a long time.

Community Development Block Grant Manager Vann McNeill stated that the number of critical reviews and back and forth dialogue between us and the state he does not know how movable those dates are. He will look into this.

Councilmember Meinzen McEnery asked about the Comprehensive Land Use Plan ranges for residential. We have a zoning classification called R-1 which is two acre lots. That density translates to 0.5 units per acre, one house on two acres. Our lowest Comprehensive Land Use Plan designation is R-1 to 2. She asked if there were any considerations to creating another designation at the lower end of .0000215 to correspond more closely to our R-1 designation. The reason for that is from R-1 to R-3, one to two equate so you can theoretically in our two acre zoning get a lot more density up to R-3. She asked if there were any contemplation of having 0 to .5 and some number to 1 by the committee.

Director of Community Development Leathers stated there is a category of residential 0 to 1 that is where the R-1 classification fits. The committee has not yet discussed this but, can take a look at it.

City Manager McDonough reminded everyone that tomorrow at 2:00 pm at the Public Safety Training facility; Gene Wilson will receive the award from the Governor for the 2006 Governor's Public Safety Award.

Councilmember Paul gave an update on meeting with the Steering Committee regarding the Abernathy Greenway Project.

City Manager McDonough wants to make sure Council is informed and our public is informed on the progress of our Fire Department and he would like to offer to Council if the Mayor feels like we should have a special session so this Council is fully briefed and informed with the progress we are making with our Fire Department. He will look for the Mayors direction.

Mayor Galambos asked City Council what they would like to do.

Councilmember Jenkins stated that a lot of wrong information is going around and she request that the Fire Chief and City Manager put in writing exactly what is going on with all these issues so we can stop all this information from going around. She believes it would be helpful to individuals in the community as well as Council.

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Councilmember Greenspan stated he was under the assumption that at every Work Session and Council Meeting from 90 days out we were to get an update. We need to be proactive and take the position and tell folks what is going on. He would like to see a mini session for the Council but, also a public notice of what is going on.

Councilmember Paul asked Assistant City Attorney McLendon if it was not important that we take reasonable attention to process and the language of our motions, the process of making sure that before we discuss an item that we have a proper motion on the floor. He questioned if it not true that if we do not follow proper procedures we are opening ourselves in any actions that we take on this Council to having our ordinances and amendments overturned in case they are ever challenged in court.

Assistant City Attorney McLendon stated that in the discussion phases of all our ordinance one of the reasons for the rules being placed is to ensure that there is an accurate record of what the discussion reflected, what was being considered and then what actually came forward as a motion, the wording of a motion is critical as to what has happened. Through the discussion phase the basis of that is to establish the foundation that leads to the ultimate vote. The voting is extremely critical and that is something that if it was not appropriately reflecting the record would absolutely create a challenge. As with everything with law, there would be an approach that you would take to counteract anything you would be looking at the totality of the record as it reflected but, following that you take all the guess work out of it.

Mayor Galambos asked if Mr. McLendon would go over this with Council in a work session.

Councilmember Paul stated he felt it would be more appropriate if City Attorney Willard were to conduct that seminar. Our actions and statements do have legal import and we need to pay a little bit more attention to the process of amending and making sure that we have proper policy and procedure as we go forward to cover ourselves.

Public Comment

Emory Clark, 432 Meadow Watch Lane, expressed concerns about Misty Creek Stables.

Councilmember Greenspan stated that there will be a meeting on this issue tomorrow night at 7:00 p.m. with Nancy and her group to provide an update on the status of this project.

John Parker, 140 Saddlevue Run, Nesbit Downs, Here tonight representing approximately 150 voters from Nesbit Downs. He expressed their concerns regarding the Misty Creek Stables. He demanded that the City fix the problem.

Pam Packer, 140 Saddlevue Run, expressed concerns about Misty Creek Stables. She stated that the only way to correct this is to put it back in the environmental condition it was.

Robert Webb, 442 Meadow Watch Lane, expressed his concerns about Misty Creek Stables. He stated that this gentleman has possible falsified documents. He also expressed concerns regarding decreasing property values.

David Graf, 462 Meadow Watch Lane, expressed his concerns about Misty Creek Stables. He expressed concerns regarding the neglect of the stop work order placed on the property.

Mark Thomas, 505 Avinyon Court, here tonight representing approximately 182 taxpaying homeowners. He expressed his concerns about Misty Creek Stables.

Mayor Galambos expressed her appreciation for Mr. Thomas comment about the city trying to do what is right.

Councilmember Meinzen McEnery announced that the city has a 24 hours Code Enforcement person. She encouraged everyone to call the City's Call Center stating they have an emergency and the call will be dispatch appropriately.

Councilmember Paul expressed his concern about issued work stop orders that are being ignored.

Director of Community Development Leathers stated the original plans were not correct and that is the reason everything is stopped. There are two aspects to this; one is a stop work order is for a Land Disturbance Permit. There are additional activities that are occurring on the site that don't relay to the Land disturbance Permit but rather to uses that are promoted in the Agricultural District which this is zoned. It is the mix of those two uses that causes the problem in terms of what we can enforce and what we can not enforce. They can have horses on the site and they can do a number of things on the site without doing land disturbance activity and that is what they have been doing as far as she can tell. Staff will continue to check that.

Councilmember Paul asked if there was reason to suspect that the property owner in question submitted incorrect information to your department and your department relied on that incorrect information to make certain decisions. He asked if it would be appropriate to refer this to the solicitor for investigation.

Director of Community Development Leathers stated he is absolutely correct.

Assistant City Attorney McLendon stated that all of these issues are things that are appropriately within the scope of the solicitor of this city to investigate.

Councilmember Paul requested the City Manager to request of the solicitor to conduct a thorough investigation of this situation.

Director of Community Development Leathers believes there is enough information for the solicitor to investigate. We know that the original information is not correct. We have correct information but we do not yet have a plan that would address this issue which is the reason why the activity is on hold.

Assistant City Attorney McLendon stated this would need to be evaluated by the appropriate individuals to make those determinations.

Councilmember Paul stated he is not asserting guilt or innocence or any facts. He is trying to determine if there is sufficient evidence in this case that we should begin some kind of inquiry by the solicitor to determine if some legality has occurred.

Assistant City Attorney McLendon explained if there is a meeting that would be forth coming on this; he believes it would be in a forum where the facts and circumstances surrounding this would be discussed and that would be something that upon reviewing that he thinks this body could make that determination. He would want us to be circumspect in making that determination after there has been a review of all the facts before we make legal conversions.

Mayor Galambos stated this is a major issue. We want staff to be correct in this regard and we expect this to move forward.

Councilmember Meinzen McEnery stated that in her district we have got a determination on a matter and voided a prior decision by Fulton County because the information provided was not done legally by a surveyor so we already have precedent to push certain issues such as this one before our City Attorney. In that instance because we pushed it was overturned by our City Attorney. She encouraged that process to start immediately.

Councilmember DeJulio requested the City Manager to oversee this process and report back to Council at the next meeting of where we stand and what we are doing about this.

City Manager McDonough stated he would have a report for Council by the next meeting.

Director of Community Development Leathers explained that the reason they accepted the information because it came from a registered engineer. That is the issue the attorneys need to look at.

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Councilmember Greenspan asked City Manager to request the solicitor to attend tomorrow nights meeting. It would be appropriate to notify the applicant of the meeting being held.

Director of Community Development Leathers stated staff would notify the applicant, the engineer and the owner.

Mayor Galambos stated this discussion can continue tomorrow night at the meeting.

Alvin S. Johnson, 607 Masons Creek Circle, Comment read into record; I continue to be concerned about the poor representation of minorities in City hiring process.

Adjourn

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

After no further discussion, the meeting adjourned at 9:40 p.m.

Date Approved: November 21, 2006



Christina V. Rowland, Interim City Clerk



Eva Galambos, Mayor