

Regular Meeting of the Sandy Springs City Council was held on Tuesday, November 12, 2013, at 6:00 p.m., Mayor Eva Galambos presiding

INVOCATION

Tom Van Laningham, Care and Counseling Center of Georgia, offered the invocation.

PLEDGE OF ALLEGIANCE

Mayor Eva Galambos led the Pledge of Allegiance

CALL TO ORDER

Mayor Eva Galambos called the meeting to order at 6:05 p.m.

ROLL CALL AND GENERAL ANNOUNCEMENTS

City Clerk Michael Casey reminded everyone to silence all electronic devices at this time. Additionally, those wishing to provide public comment during either a Public Hearing or the Public Comment segment of the meeting are required to complete a public comment card. The cards are located at the back counter and need to be turned in to the City Clerk.

City Clerk Casey called the roll.

Mayor: Mayor Eva Galambos present

Councilmembers: Councilmember John Paulson, Councilmember Dianne Fries, Councilmember Chip Collins, Councilmember Gabriel Sterling, Councilmember Tibby DeJulio, and Councilmember Karen Meinzen McEnery present.

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Fries moved to approve the Regular Meeting agenda for November 12, 2013. Councilmember Paulson seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 13-191)

1. Meeting Minutes:
 - a) October 15, 2013 Regular Meeting
 - b) October 15, 2013 Work Session*(Michael Casey, City Clerk)*

(Agenda Item No. 13-192)

2. Consideration of the Acceptance of the Dedication of a Right of Way Deed as part of the Zoning Requirements (5440 Mt. Vernon Parkway)
(Garrin Coleman, Director of Public Works)
Resolution No. 2013-11-69

(Agenda Item No. 13-193)

3. Consideration of the Acceptance of the Dedication of a Right of Way Deed as part of the Zoning Requirements (5836, 5850, 5866 Glenridge Drive)
(Garrin Coleman, Director of Public Works)

Resolution No. 2013-11-70

Motion and Vote: Councilmember Fries moved to approve the Consent Agenda for November 12, 2013. Councilmember Paulson seconded the motion. The motion carried unanimously.

PUBLIC COMMENT

Eric De Groot, 455 Stone Mill Trail, stated he resides in the Lost Forest subdivision. He has lived in Sandy Springs for twenty years. One of the pearls of the City is the trees. Trees provide shade, balance, and beauty for his property. He will be addressing the tree ordinance. With the recent recession some property values have decreased substantially. This has provided an opportunity for families to move into his subdivision. One of the families submitted a plan to the City to make a change to their property which included cutting down trees, and the plan was approved. The Lost Forest homeowners association stated if the City approved the plan, they would approve the plan as well. He was told the family would spend \$30,000 in landscaping. It turns out the family is only spending \$20,000 to \$25,000 to remove the trees. This may be the only property in the subdivision that has no trees in the front yard. There is another property that sold in the area where the owner removed most of the trees in accordance of the City's canopy cover ordinance of 30%. This property is also experiencing water runoff and drainage problems. Trees are one of the most prized possessions of the City. They are the gift of Mother Nature and they provide many benefits for citizens. He recommended that the canopy cover ordinance be changed from 30% to 40%, where the cover would be 20% in the front and 20% in the backyard. This will allow the properties to look better and will also alleviate problems some of the homeowners experience.

Sam Freidman, 914 Davis Drive, stated his wife and a few neighbors are in attendance this evening. He and his wife purchased their home about thirty years ago. Their home is a 1950's ranch home that they renovated. A tree came through the roof and destroyed the home. The home was rebuilt to the City's current standards on the same footprint. His neighborhood has two acre lots that tend to be very steep and heavily wooded. There was a gentleman that acquired the property next to his and he found the gentleman drilling without a permit. He said the plans for the property included clear cutting the site and would have had a huge and negative impact on his property. The plan included retaining walls. This person has a reputation of clear cutting properties over the weekend while others are out of town. Fortunately, Councilmember Meinzen McEnerny spent half a day assessing the trees on the property. The City's Planning Department stopped the process. There is such a development on Woodvale going on right now where the site has been clear cut. The Council will be considering a new tree canopy ordinance. He asked that Council give the community time to give public input and participate in the process of reviewing the recommendations of the City's Community Development Department. The quality of life in Sandy Springs depends on what the Council will do in regards to City development standards. He is a commercial developer and has had the opportunity to develop properties all over the United States. The guiding theme in all his developments has been "do no harm to anyone, including neighbors".

Bill Candler, 4722 Woodvale Drive, stated the property that Mr. Freidman referenced is next door to his home. The subject property is 4746 Woodvale Drive. He welcomes the young family and children that are moving in next door. The builder developing the property was allowed to clear cut the lot from the front down to his property line to the back and left an area of 10% in the back northwest corner. The builder also cut the grade at a minimum of eight feet at the property line down his fence line. The storm that occurred in June 2013 blew down the existing trees that were on his property or on the property line. He referenced photos of the trees. He has been affected by the open policy of clear cut of the lot and grading. There is usually a buffer involved between a property and the property next door. This area is zoned R-1 with two acre lots. With the size of the lots, there should be respect to the boundaries of the properties. He is fine with the tree ordinance, except he is concerned it will not stop development such as this. The builder clear cut the lot on a property line and cut the grade a substantial amount. His home is on the top of a hill and he will now have a wall on one side of his lot that is visually dramatic. He referenced a photograph of the house next door where there are no trees. The trees the property owner plans on planting back are below the wall. Now he will have to spend money to correct what the next

door property owner has done. His home is where his wife grew up and they bought the home from her parents. He feels the builder and the family is probably following the City ordinances, but he does not think it is fair to the existing neighbors. It is important to address the boundary of the tree canopy on different lot sizes. There should be an undisturbed buffer in the twenty-five foot setback.

Mary Stone, 4830 Woodvale Drive, stated she lives three houses down from the new construction at 4746 Woodvale Drive. She has lived in her home with her husband and five children since 2001 and never had any flooding issues until the clear cutting of 4746 Woodvale Drive in June 2013. She provided photographs of flooding that has occurred six to eight times since that lot was clear cut. The flooding rendered her pool and backyard completely unusable all last summer. She spent approximately \$1,000 to have the pool repeatedly cleaned of silt and mud that flows from that property with every significant rainfall. The builders of 4746 Woodvale Drive have attempted to alleviate some of the runoff problem by installing three silt fences, an eight inch underground pipe, and digging a hole approximately eight foot wide, eight foot long, and three feet deep in her backyard. Also added was an extensive network of railroad ties to help protect the pool. None of this has worked to prevent the river of mud and silt that continues to flow from 4746 Woodvale Drive. The builders have told her a retaining wall will be completed in the first quarter of 2014. She will be left with the damage and the landscaping cleanup when and if the flooding stops. However, she has no idea if this is an issue she will be dealing with for the next twenty years. Since June, she has contacted multiple people at the City of Sandy Springs to find out what can be done to protect or help her property. To date, she has not received a meaningful response and the unintended consequences of what Sandy Springs has permitted have left a material negative impact on her property and her family. She requested the City halt the construction at 4746 Woodvale Drive until the continuing damage can be rectified. She referenced photos she left with the City Clerk that show the depth of the rainwater in her backyard.

Michael, McDonald, 7040 Riverside Drive, stated he is an avid baseball fan. The announcement that the Atlanta Braves plan to relocate to Cobb County is of concern. He requested the City form some sort of a monitoring committee to be involved as much as possible as the project develops over time. The impact of the new stadium could be both positive and negative on Sandy Springs. He hopes the impact will be positive. There may be infrastructure and traffic issues that come up. By being involved with the situation from the beginning, the City will be in a better position to have a seat at the table when it comes to influencing GDOT and traffic. He hopes the Braves are very successful on the field and a good neighbor to Sandy Springs.

Susanne Waring, 4765 Woodvale, stated she lives across the street from 4746 Woodvale Drive. She can attest to dramatic change in the street due to the removal of all the trees. She was out of town for a few weeks and when she came home did not recognize her neighborhood due to the construction. A landscaping plan was submitted to the City that was deemed adequate. There are many factors to be considered when such a dramatic change takes place. The residents in the neighborhood have installed landscaping, irrigation systems, and have built onto their homes. These are large properties on large parcels. It would behoove the City to be very circumspect about the tree ordinance and how land is utilized and changed. She supports Councilmember Meinzen McEnery's effort to restrict the mindless clearing of land and trees and that there be far more thinking by expert soil and erosion engineers. She will have to make changes, since the sun now shines over the entire front of her property, which it did not do before. She wants to be a good neighbor and hopes the home is beautiful.

Councilmember John Paulson asked if staff is aware that the property under construction is flooding the adjacent properties every time it rains. This is a code enforcement issue, regardless of the tree ordinance.

Councilmember Karen Meinzen McEnery stated she asked Director of Community Development Angela Parker to gather information for her, so she is not present to answer that question.

Mayor Eva Galambos stated this can be discussed later in the Work Session.

Mayor Galambos called the members of Boy Scout Troop #232 to the front to be recognized. The scouts introduced themselves.

PRESENTATIONS

There were no presentations.

PUBLIC HEARINGS

City Clerk Michael Casey read the rules for the Public Hearings segment of the meeting.

Alcoholic Beverage License

(Agenda Item No. 13-194)

1. Approval of Alcoholic Beverage License Application for Marlow's Tavern at 5590 Prado Place Suite 160 Sandy Springs, Georgia 30342. Applicant is John Metz for Consumption on Premises Wine & Malt Beverage

Finance Director Karen Ellis stated this is a new application for consumption on premise of wine and malt beverage for Marlow's Tavern located at 5590 Prado Place, Suite 160. The applicant has met all the requirements and staff recommends approval.

Mayor Eva Galambos called for public comments in support of or in opposition to the application. There were no public comments. Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember Meinzen McEnerny moved to approve Agenda Item No. 13-194, Alcoholic Beverage License Application for Marlow's Tavern at 5590 Prado Place Suite 160, for Consumption on Premises Wine & Malt Beverage. Councilmember Fries seconded the motion. The motion carried unanimously.

(Agenda Item No. 13-195)

2. Approval of Alcoholic Beverage License Application for Chevron Food Mart at 8295 Roswell Rd, Sandy Springs, Georgia 30350. Applicant is Priti Denta for Retail/Package Wine and Malt Beverage

Finance Director Karen Ellis stated this application is for a change of ownership for retail package wine and malt beverage for the Chevron Food Mart located at 8295 Roswell Road. The applicant has met all requirements and staff recommends approval.

Mayor Eva Galambos called for public comments in support of or in opposition to the application. There were no public comments. Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 13-195, Alcoholic Beverage License Application for Chevron Food Mart at 8295 Roswell Rd, for Retail/Package Wine and Malt Beverage. Councilmember Sterling seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

(Agenda Item No. 13-196)

1. Approval for the Mayor to sign the List of Roadways for submittal to GDOT for funding under the Local Maintenance and Improvement Grant (LMIG)

Director of Public Works Garrin Coleman stated this item is for a grant in the amount of \$635,000. The City has a list of six roads that cover about 1 ½ miles of paving which staff would like to submit for the grant.

Councilmember Gabriel Sterling asked if Mount Vernon Highway really has a PCI of 15.

Director of Public Works Coleman responded yes.

Councilmember Karen Meinzen McEnerny stated the proposed roundabout in that area is probably why nothing has been done sooner for this road.

Director of Public Works Coleman responded that is correct.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 13-196, approval for the Mayor to sign the List of Roadways for submittal to GDOT for funding under the Local Maintenance and Improvement Grant (LMIG). Councilmember Fries seconded the motion. The motion carried unanimously.

Resolution No. 2013-11-71

(Agenda Item No. 13-197)

2. Approval for the City Manager to Execute a Contract with the Georgia Department of Natural Resources Environmental Protection Division for the 319(h) Grant for the Marsh Creek Headwaters Best Management Practices (BMP) Project (Capital Improvement CC007)

Director of Public Works Garrin Coleman stated in October staff briefed Mayor and Council about this project during the Work Session. This is the Marsh Creek headwater best management practices project, which is also known as City Center 007 in the CIP program. The City was fortunate to be selected out of thirty-two applications from which only five were vetted and chosen for this funding. The grant is in the amount of \$387,000, but with stipulations.

Mayor Eva Galambos asked if this is the stormwater grant.

Director of Public Works Coleman responded yes.

Mayor Galambos asked if the project will produce a pond.

Director of Public Works Coleman responded yes.

City Manager John McDonough stated staff is still working on the details, but it will not impact the grant. The direction the City is going in is more favorable to the grant application. Staff will be back to brief Council on this in the next month.

Mayor Galambos asked what the time outlook is for this project and when will there be a pond.

Director of Public Works Coleman stated the grant stipulation is for completion by September 2015, but the City should be well ahead of that schedule.

Councilmember Gabriel Sterling asked if the project will be in conjunction with the City Center development project.

Director of Public Works Coleman responded yes.

Councilmember Sterling asked how much was budgeted for the \$2.8 million.

Director of Public Works Coleman stated over \$2 million.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 13-197, for the City Manager to Execute a Contract with the Georgia Department of Natural Resources Environmental Protection Division for the 319(h) Grant for the Marsh Creek Headwaters Best Management Practices (BMP) Project (Capital Improvement CC007). Councilmember Paulson seconded the motion. The motion carried unanimously.

Resolution No. 2013-11-72

(Agenda Item No. 13-198)

2. Consideration of the Approval of the Acquisition of the property located at 465 Hammond Drive as part of a Stormwater Purchase

Assistant City Attorney Cecil McLendon stated this item pertains to a single family residence at 465 Hammond Drive. The issue first occurred several years ago while evaluating the stormwater infrastructure on the property. Two years ago this property had sinkholes in the yard. At that time, due to the fact that the stormwater infrastructure is attached to the road system and part of the system that conveys water under the roadway, it was determined the damage on the property is the City's responsibility. The City moved forward with repairs at that time. In the last several months those repairs have failed. Included in the agenda package are photos of very large sinkholes that are at points of ingress and egress from the carport. There are structural issues in fixing some of the pipes. It was also determined there is a pipe that goes under the swimming pool on the property. Knowing this, and that the previous repairs did not hold, staff evaluated the potential options on how to fix the issue. The repairs would require demolishing part of the house, fixing the pipes, and then putting the house back into working order. Another option would be to substantially move this system and that would be very expensive. After reviewing the cost benefits, it was determined it would be better to acquire the home, fix the infrastructure, and compensate the owners. Staff entered into negotiations and reached an agreement with the property owner. There is an agreed upon price of \$425,000. He asked that Council approve the contract in order for staff to move forward with the purchase of the property, subject to review by the City Legal and Finance departments.

Councilmember Gabriel Sterling stated the City is not using eminent domain. This is a negotiated agreement with the property owner.

Assistant City Attorney McLendon stated the owner was satisfied with the negotiations and is looking forward to staying in Sandy Springs.

Councilmember Dianne Fries asked if the house will be demolished.

Assistant City Attorney McLendon stated that is correct. The solution at this time is to remove the home, figure out the best practices for the stormwater system and put that in place.

Mayor Eva Galambos asked what the cost of the new stormwater system will be.

City Manager John McDonough responded that has not been determined, yet.

Assistant City Attorney McLendon stated this option is the best approach identified by staff.

Councilmember Karen Meinzen McEnerny stated demolishing a ranch home should cost around \$25,000.

Councilmember John Paulson stated once the repairs are made on the property, it will be a viable piece of property.

Mayor Galambos stated the property is fairly close to the end of Hammond Drive near Roswell Road, which is street area that may eventually have to be widened.

Councilmember Meinzen McEnery stated the property is less than half an acre.

Councilmember Fries stated it is cheaper to demolish the house than trying to repair the issues and having problems later down the road.

Councilmember Meinzen McEnery stated there are two piping systems with massive pipes under the structure.

Councilmember Tibby DeJulio asked when staff anticipates closing on the purchase of the property.

Assistant City Attorney McLendon stated staff has completed most of the title work. The only thing that remains to be completed is the finalization of the Phase I, and that could be done any day now.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 13-198, the Acquisition of the property located at 465 Hammond Drive as part of a Stormwater Purchase. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Resolution No. 2013-11-73

(Agenda Item No. 13-199)

4. Distributive Antenna Systems (“DAS”) Regulation

Assistant City Attorney Cecil McLendon stated Council passed a moratorium on Distributive Antenna Systems (DAS) being placed in the right-of-way. Staff did not see any specific regulations on that issue. For the purposes of this agenda item, staff has taken a small step in implementing the ordinance. The ordinance states there shall be no distributive antenna systems in the right-of-way that are located on their own pole. The concern was that someone could come in and request just poles for DAS boxes. If the DAS system is placed in the right-of-way, it must be collocated on someone else’s infrastructure that legally exists in the right-of-way. The ordinance states the DAS will not be collocated on City infrastructure. Most poles will collocate with someone else, but not on City property.

Councilmember Gabriel Sterling stated he understands this is a first step. He asked if the ordinance is a stop gap measure while staff reviews the full ordinance and all the implications therein.

Assistant City Attorney McLendon stated within the next couple of months staff will bring a Work Session item to Council regarding DAS. Another issue is people will install infrastructure in order to be able to locate the antenna systems. Council needs to decide if that is something the City wants to do. There have been cases where the DAS has been located inside a street light, so it cannot be seen.

Councilmember Sterling stated most of the Council does not like cell towers. The DAS could be a solution that is aesthetically more pleasing. He does not want to preclude anyone from bringing new technology to the City.

Assistant City Attorney McLendon stated he will put together an agenda item within the next two months and bring the policy issues back to Council. There are two areas staff will need to review. One area is the right-of-way issue. There might be a way the City can benefit by having the DAS in the right-of-way.

Mayor Eva Galambos stated this could be a revenue source for the City.

City Attorney Wendell Willard stated the form of what will be the future with radio systems is the use of smaller antennas as opposed to large high rise antennas. There will still be the large antennas, but there will be perimeter regional DAS picking up communications between phones from the towers.

Councilmember Sterling stated this can also potentially help with internet connections in the City Center.

Assistant City Attorney McLendon stated the second issue that staff will address is commercial properties. If someone wants to install DAS on a commercial property where it is visible from the right-of-way, this may need to be regulated by a use permit.

Councilmember Sterling stated Council needs to be careful regulating DAS, since it is basically just a router. He wants staff to be careful when the language for the regulation is created.

Assistant City Attorney McLendon stated the issue is going onto commercial or private property. Staff could make a distinction that would include anything that is meant to serve just that property. If the DAS is serving off of the property, it can be regulated.

Councilmember Dianne Fries stated the City needs to work with the State on this, because the concern is along Roswell Road since that is a State road right-of-way.

Assistant City Attorney McLendon stated the City is on the leading edge, while others are just beginning to address this issue.

Councilmember Dianne Fries stated with the new technology coming, it may be a good thing for the City, and she wants Council to move quickly to address this.

Councilmember Karen Meinzen McEnery stated she applauds the Assistant City Attorney. He and the Council have done a wonderful job with the cutting edge cell tower ordinance. This came about due to the technology that has been explosively used in terms of data lines, etcetera, and that more cell towers were needed. The first thing done with cell towers was the requirement for collocation. The Assistant City Attorney made Council aware that the City had no protection against, for example, twenty-five new poles going up for a DAS in the City. It was a great idea to place a moratorium on the permitting and a great idea for the City to focus on collocation. There are plenty of power poles and poles in the right-of-way that can be used for these purposes.

Motion and Second: Councilmember Sterling moved to approve Agenda Item No. 13-199, Distributive Antenna Systems ("DAS") Regulation. Councilmember Fries seconded the motion.

Councilmember Sterling stated often times with this work a place holder logo will be created and all of a sudden the place holder logo becomes the logo, because no one goes back and does the thing they were supposed to do. He wants to see in 60 or 90 days a real regulation in Work Session where Council can discuss this subject.

Assistant City Attorney McLendon stated he is open to feedback, but for the purposes of the Work Session he is not going to draft a regulation for Council. He plans on talking through the issues and getting feedback from Council. Then he will draft an ordinance and bring that back to Council.

Councilmember Sterling stated the discussion will be an educational thing, because he does not understand how DAS works. He would prefer that Council learn about the DAS.

Councilmember John Paulson asked if there are other cities that are dealing with this and how they are dealing with it.

City Attorney Willard stated staff is looking into that.

Vote on the Motion: The motion carried unanimously.
Ordinance No. 2013-11-20

Councilmember DeJulio asked for the grammar to be corrected before the ordinance is signed.

Mayor Galambos asked for the spelling to also be corrected.

(Agenda Item No. 13-200)

5. Consideration and Approval of Land Exchange for property located at the Cox Communications Campus at 6305 Peachtree Dunwoody Road, Land Lot 18, 17th District as a right-of-way donation of 0.035 acres for an exchange of 0.035 acres on same parcel of land

Assistant City Attorney Cecil McLendon stated in the past, buildings that were built at the Cox Communications campus included a right-of-way exchange that changed the dynamics of the road to make it friendlier to the traffic patterns. Upon completion, Cox Communications proposed to the City a smaller transfer of property to better align the road. Staff has reviewed the proposal and agreed that this exchange is of benefit to the City, because it improves the alignment. He handed out a modified plat document to Council. The last plat showed .035 acres and .035 acres for the exchange. An updated plat shows the City exchanging .046 acres and Cox Communications exchanging .023 acres. The City appraiser reviewed the plat and stated there is not much value in the property, so it is essentially an even exchange. Staff is asking Council for authorization to move forward with the land exchange, subject to legal review.

Motion and Vote: Councilmember Fries moved to approve Agenda Item No. 13-200, a Land Exchange for property located at the Cox Communications Campus at 6305 Peachtree Dunwoody Road, Land Lot 18, 17th District as a right-of-way donation of 0.023 acres for an exchange of 0.046 acres on the same parcel of land. Councilmember Meinzen McEnery seconded the motion. The motion carried unanimously.

Resolution No. 2013-11-74

Councilmember Gabriel Sterling asked what the green marking is on the map that is not part of the exchange.

Assistant City Attorney McLendon stated it is an internal transfer between the property holders.

(Agenda Item No. 13-201)

6. Donation of Land Located at 445 Abernathy Road

Assistant City Attorney Cecil McLendon stated this property is on Abernathy Road to the east of the intersection of Abernathy and Roswell Road, which contains a veterinary surgical center. The property owner has offered a very generous donation of property to the City. Included in the agenda package is a plat of the property. It is located next to the Mount Vernon Woods neighborhood. The property owner is asking the City to accept the property and for it to be used as park property. He referenced photos of the property. Assistant City Manager Bryant Poole has walked the property.

Assistant City Manager Bryant Poole referenced a photo that shows the front of the property from Abernathy Road. On the left of the photo towards the back side of the building is where the trail begins. The City Manager and he walked the trail, which is beautiful. There is a creek along the trail and a small waterfall.

Councilmember Gabriel Sterling asked how long is the existing trail and is it a single loop.

Assistant City Manager Poole stated the trail has two internal loops and one large loop, but is primarily one significant loop.

Mayor Eva Galambos asked what is the acreage of the property.

Assistant City Manager Poole stated 4.1 acres.

Councilmember Dianne Fries asked if there are restrictions on what can be done with the property.

Councilmember Sterling stated the property has a conservation use easement. He asked if only a park can be on this property.

Assistant City Manager Poole stated he believes that is the intent of the property owner.

Councilmember Sterling stated when the veterinary clinic was zoned, the Mount Vernon Woods subdivision insisted that the four acres be kept in a natural state and they did not want access from their neighborhood.

Councilmember Tibby DeJulio stated the only way to access the property is to park at the veterinary clinic. He asked if the veterinary clinic has given the City a permanent easement, so the City won't have a landlocked property that cannot be accessed.

Assistant City Attorney McLendon stated at this time an easement has not been granted. That will be an issue on how the public can access the property. Staff can look at how the property will be utilized in the long term.

Councilmember Karen Meinzen McEnerny stated the Big Trees Forest Preserve does not have a parking easement either, but they do have a nonexclusive easement for parking. A nonexclusive easement means one can park anywhere where there is available parking. This has seemed to work well at Big Trees. Charlie Cochrane, the former Executive Director of the John Ripley Forbes Big Trees Forest Preserve, designed this trail system when the owner of the veterinary clinic saw what a gorgeous property it is. There is a stream cascading off of rocks and he cut a beautiful trail through very old mountain laurels and looped it around to the privet covered lower area. It is a lovely area, especially in the spring. She endorses this and that the City receive a nonexclusive parking easement.

Motion and Second: Councilmember Sterling moved to approve Agenda Item No. 13-201, Donation of Land Located at 445 Abernathy Road. Councilmember Meinzen McEnerny seconded the motion.

Councilmember Sterling stated the neighborhood does not want the City allowing citizens access to the property through the neighborhood. Before anything is done to the property, he wants to ensure there is a public hearing. The nonexclusive parking agreement needs to be included with the purchase.

City Attorney Wendell Willard asked that the parking agreement be part of the motion. The agreement will be subject to the approval of the City Manager and City Attorney as to access to the property and parking.

Councilmember Meinzen McEnerny stated the City may not be able to get a parking easement.

Councilmember Sterling stated he does not want to make the deal contingent upon the parking easement.

City Attorney Willard stated it is difficult for the City to acquire a piece of property for which there is no use by access.

Friendly Amendment to the Motion: Councilmember Meinzen McEnerny offered a friendly amendment to the motion to include the stipulation of a non-exclusive parking easement to allow public access to the property. Councilmember Sterling accepted the friendly amendment to the motion.

Mayor Galambos stated the City needs the easement, otherwise it will be a useless park.

Councilmember Meinzen McEnerny stated the nonexclusive parking easement is just that. It does not say how many parking spaces or where they are located.

Assistant City Attorney McLendon stated instead of moving forward with this item, he can approach the property owner's attorney and discuss this issue.

Substitute Motion and Vote: Councilmember Sterling moved to table Agenda Item No. 13-201, Donation of Land Located at 445 Abernathy Road, until the November 19, 2013, City Council meeting. Councilmember Fries seconded the motion. The motion carried unanimously.

(Agenda Item No. 13-202)

7. Consideration of the Waiving of Tardiness for a Late Submittal for the City Center RFQ

City Attorney Wendell Willard stated the City advertised an RFQ recently addressing partnering with potential developers for the City Center development. The RFQ was seeking companies that are qualified as a means of experience and what involvement they have had with other types of projects similar to the proposed City Center.

City Manager John McDonough stated City staff received a submittal on the due date that was three minutes late, at 2:03 p.m. The individual delivering the submittal called the City's procurement staff, notifying them they would be late due to an accident on GA400. The City's rules are strict on the receipt of RFQ's. The procurement staff made the determination to not accept the RFQ and did not take the package. The Mayor and he received an email from the Senior Vice President of the company asking if the City would give consideration to the circumstances. This was discussed with the City Attorney and it was suggested the company sign an affidavit swearing to the circumstances surrounding the late submittal. The company complied and an affidavit was signed by a senior manager and is included in the agenda package. The issue before Council is whether or not they want to waive the 2:00 p.m. submittal deadline due to extenuating circumstances.

Councilmember Dianne Fries asked if the company called City Hall while they were en route delivering the package.

City Manager McDonough stated that is his understanding.

Councilmember Tibby DeJulio stated everyone is used to Atlanta traffic and the City should not be so inflexible due to a traffic accident that caused missing a deadline by three minutes.

City Manager McDonough stated this is an RFQ process which includes two phases. The first phase includes a selected short list and then there is the competitive RFP process, which is different from the bid process.

Councilmember John Paulson stated in the bidding world, where money is involved, three minutes can make a big difference. The fact that no money is involved in this, he agrees with waiving the three minutes of the RFQ being submitted late.

Councilmember Gabriel Sterling asked if the City will get into legal jeopardy if Council waives the tardiness.

City Attorney Willard stated the City needs something as far as verification that the company was delayed due to something beyond their control. It is up to Council if they wish this RFQ to be accepted and considered by staff.

Councilmember Sterling stated just doing this does not make it a precedent setting thing, especially as it relates to an RFP.

City Manager McDonough asked the representative of the company that submitted the late RFQ to the front.

Malloy Peterson, Carter and Associates Senior Vice President, stated she made the phone call to the City procurement department notifying them that the associate was running late with delivering the package. The associate left the office way in advance to deliver the package and got stuck in traffic due to an accident that was near the Concourse buildings off GA400. She called the procurement officer and left a voicemail stating she believed the associate would be delivering the package close to 2:00 p.m., but may be a minute or two late. She received a call from the associate that she walked in the door at 2:00 p.m. By the time she delivered the package it was 2:03 p.m., and the package was not accepted.

Motion and Vote: Councilmember Meinzen McEnery moved to approve Agenda Item No. 13-202, Waiving of Tardiness for a Late Submittal for the City Center RFQ. Councilmember Fries seconded the motion.

Councilmember Karen Meinzen McEnery stated this protects the public, because we are adding another qualified bidder to the process.

Councilmember Dianne Fries stated staff may want to look at having a specific time frame for submitting the proposals.

City Manager McDonough stated this is the first time there has been a set of circumstances like this. Individuals have arrived late to submit packages, but did not have a legitimate excuse. The City's policy has served us well the past eight years. In this case, it was three minutes late and there was a legitimate reason. If Council so deems to waive the tardiness, he suggests keeping the City policy as it is.

Councilmember Chip Collins asked if it is a written policy.

City Manager McDonough stated typically the submittal policy is in the proposal or RFQ. The language states proposals received after the deadline will not be accepted.

Councilmember Collins asked if the policy states the City Council has the discretion to accept a late proposal.

City Manager McDonough responded no.

Councilmember Collins stated he recommends the City add this to the policy.

City Attorney Willard stated if they are construction contracts, the City has to comply with the State laws for which there are specific standards. Staff thought it best to bring this item before Council to make this determination. The company signed an affidavit verifying the reason they arrived late.

Councilmember Collins stated being a litigator himself, he appreciates the opportunity to be flexible and thinks that Council should waive the tardiness. It should be made clear that Council has the right to waive the tardiness.

Councilmember Fries stated for RFQ's that involve a monetary value the policy includes the caution that absolutely no late submittals will be accepted.

Vote on the Motion: The motion carried unanimously.

REPORTS

1. Mayor and Council Reports
2. Staff Reports
 - a) September Financial Report – Finance Director Karen Ellis

Councilmember Dianne Fries stated she was going through old paperwork and came across something from 2006 that discussed franchise fees for waste management companies. She asked if the City charges these fees.

City Manager John McDonough stated this is the City's infrastructure maintenance fee and the funds go towards the paving program.

Mayor Eva Galambos stated she has a partial report for filling the three vacancies on the Stormwater Advisory Board. She nominated Bill Cleveland and Franklin Grier.

Councilmember Karen Meinzen McEnerny recommended Patty Berkovitz.

Councilmember Dianne Fries stated she thought the new Mayor would make the nominations to the board. This has not been discussed by Council and she would like it moved to the next City Council meeting. Usually the nominations are on the agenda and this is not on the agenda.

Mayor Galambos stated this item will be postponed until the next meeting.

- b) False Alarm Ordinance Implementation – Chief of Police Ken DeSimone

Chief of Police Ken DeSimone thanked the Council and Mayor for the Veteran's Day event that was held in Sandy Springs. As a Marine Corp veteran with over thirty years it was a very moving event. He is the Sergeant of Arms at American Legion Post #140 in Chastain Park. There are about 140 members at that location. The Post members asked him to make sure the Council and Mayor know how much the members appreciated the event.

Mayor Eva Galambos stated Director of Communications Sharon Kraun should be thanked for coordinating the event.

Councilmember Gabriel Sterling asked if they enjoyed the location of the event.

Chief of Police DeSimone responded yes. It was a great location and a lot easier to get to for the older veterans.

Mayor Galambos stated she liked how the retirement communities sent their vans with residents.

Chief of Police DeSimone stated in November 2012, Council passed an ordinance related to false alarms. Last year, the Police Department responded to over 9,000 alarm calls with over 96% of those being false alarms. The Fire Department responded to almost 1,800 calls with about 96% of those being false alarms. Earlier this year the company Cry Wolf was selected through the RFP process. The cities of Dunwoody, Johns Creek, and Atlanta selected the same vendor. Enforcement of the false alarm ordinance began October 1, 2013. There were many communication initiatives, so the public would be informed. Two open house forums were held regarding the false alarm ordinance. The Police and Fire Department contacted the most egregious violators of false alarms. The City paid for ads in the Sandy Springs Neighbor and Reporter Newspapers. The information was included in the City newsletter, and placed on both the City and Police Department's Facebook page. The Sandy Springs Police Department's Facebook page has over 6,000 likes. Signs were also placed on City property. The information was also published on Nixel. As of today, there are 6,220 alarms that have been registered. Of all the recent alarm calls, about 54% are not registered. The most common reason the alarms are not registered is because the property owners stated they did not know about the ordinance. The goal is for citizens to comply with the ordinance and reduce the false alarm calls that the Police and Fire Department receive. If an individual called 9-1-1 as many times as the alarm companies have been calling, the individual would be charged, and arrested because it is an abuse of the 9-1-1 system to call repeatedly. It is proposed that those who are notified of failure to register have fourteen days to register to avoid a \$100 penalty. After 14 days, the \$100 fine will be assessed. This process will be followed until February 1, 2014.

Councilmember Dianne Fries asked if the property owners will be notified and given 14 days to register.

Chief of Police DeSimone responded yes. For example, if a police officer responds to a false alarm call and the property owner has not registered, they will receive a notification that their alarm is not registered with the City. They will have 14 days to register the alarm to avoid the \$100 fine.

Councilmember Fries stated this will be done until February 1, 2014. She asked if anyone has paid a fine as of yet.

Chief of Police DeSimone responded yes, some people have paid a fine. Some property owners paid the fine and did not appeal, because they knew they were supposed to be registered as of October 1, 2013. Now property owners will receive an amnesty period until February, 1, 2014.

Councilmember Fries asked how the property owners will know they have that amnesty period.

City Manager John McDonough stated the amnesty will be prospective and not retroactive.

Councilmember Gabriel Sterling asked if this is being done administratively to allow the 14 day waiver.

Councilmember John Paulson asked if a resolution has to be passed.

Chief of Police DeSimone stated the waiver of 14 days is not in the ordinance. This was an administrative decision. The appeals process goes to the Police Chief.

Councilmember Sterling stated he finds this to be unfair, if the waiver is only prospective. If people have paid the fine and the City did not give them the opportunity that other individuals are being given moving forward, it is unfair. The City should go back and give them the same period of time. If the property owner does register in the 14 day time period, the \$100 fine should be refunded. He has a constituent for whom the alarm company was working on the alarm and it went off. The property owner did not even know about the ordinance.

Chief of Police DeSimone stated in a situation like that he would ask if the property owner is paying the alarm company every month, why didn't the alarm company tell him.

Councilmember Sterling asked if the alarm companies are notifying the residents they need to register.

Chief of Police DeSimone responded they should be.

Councilmember Sterling stated they should be, but that does not mean the City can make them do that.

City Attorney Wendell Willard stated the City notified every alarm company that staff knows of that is doing business in the City.

Councilmember Sterling stated this is not the individual's fault. The alarm company has no direct responsibility to tell the property owners. This does not mean the City cannot fine the alarm companies.

City Manager McDonough stated the alarm company makes their money off of the City infrastructure. If the City did not have a 9-1-1 system, they would not be in business.

Councilmember Sterling stated the alarm company is not receiving the penalty, the individual is. Staff should go back to the individuals that did not know about registering their alarms.

City Manager McDonough stated an appeals process is in place. Some appeals have been granted and others have been not.

Councilmember Fries asked if the property owners who have paid the \$100 fine have now registered.

Chief of Police DeSimone responded yes. There are only about six people that said they did not know about registering their alarms.

Mayor Galambos stated there is no difference between the property owners who had no idea they needed to register their alarm and the others who admit they knew.

Councilmember Fries asked how many \$100 fines the City has received.

Councilmember John Paulson stated he had a constituent tell him he received a bill for the \$100 fine. The alarm company mistakenly set up his alarm system so there was no delay before the police were called. He told the citizen about the appeals process, who then submitted an appeal to the City. The citizen is an elderly gentleman who had no idea about registering his alarm. The gentleman again recently received another \$100 fine from the City.

Councilmember Sterling stated it is unfair to the individuals who paid the fine.

Councilmember Tibby DeJulio asked if the fine was instituted in October 2013.

Councilmember Fries responded no.

Mayor Galambos asked how many people have paid for failure to register their alarms.

Chief of Police DeSimone stated the number is 9.24 % of 662 and six appeals.

Councilmember Fries stated the six people should be refunded the \$100 fine fee, if they registered and this process should be implemented through February 1, 2014.

Councilmember Karen Meinzen McEnerny asked if we could call the question.

Mayor Galambos stated there is no action to take.

City Manager McDonough stated there is action to take if Council wants to refund those individuals who have already paid.

Motion and Vote: Councilmember Fries moved to approve a refund to the individuals that were fined \$100 for failure to register their alarm systems and paid the fine, as long as they have since registered their alarms; to implement a grace period of 14 days once an individual is notified they have not registered their alarm, through February 1, 2014; and after February 1, 2014 to return to the existing appeals process. Councilmember Sterling seconded the motion. The motion carried unanimously.

Councilmember Meinzen McEnerny stated she does not want the appellate process to take up too much of Police Chief DeSimone's time.

City Manager McDonough stated the appeals process has been delegated to staff. The reason this was brought forward is because over 50% of those that were fined claimed they did not know about registering their alarms.

Vote on the Motion: The motion carried unanimously.

c) Lake Forrest Slope Stabilization Update – Assistant City Manager Bryant Poole

Assistant City Manager Bryant Poole stated staff should have a contract ready to bring to Council next week. On October 15th staff was given direction on how to move forward with the Lake Forrest slope stabilization. On October 16th, staff notified the property owners that would be affected by the work of the plan to stay on the right-of-way. On November 1st, the three contractors who submitted a bid with the City met with staff to go over the scope of work. On November 8th, the contractors were provided the plans for the contractors to bid on. He referenced a photo that shows a reinforcing catch mesh system that will be placed on the slope of the right-of-way. If the property owners are interested, the City will encroach on their property, after signing an encroachment permit, placing the mesh on their portion of the right-of-way and staying on the road side of the HOA fence. The plan is to minimize the impact to the vegetation that is there. Hydro seeding will also be done in the area. This involves spraying on the fertilizer and seed to the area to minimize the disturbance to the soil. It has been recommended to use fescue and a creeping red fescue. The vegetation will be cut down to allow the hydro seed application to get to the dirt and yet not kill it, but grow back when the season is right. Hopefully, the vegetation that comes back, both naturally and what is planted as fescue will be green. He referenced a rendering of how the wall will be structured. Curb and gutter, barrier wall, and a wall system will be placed behind it on the slope.

Mayor Eva Galambos asked how tall the wall will be.

Assistant City Manager Poole stated the wall height will vary. Staff tried to shorten the length of the walls as much as possible. The wall heights will vary anywhere from nine feet to eighteen to twelve feet.

The existing slope is as high as forty feet. If material were to get loose, it would fall down and still be behind the wall.

Councilmember Dianne Fries asked if there will be any trees at the top of the slope.

Assistant City Manager Poole responded no.

Councilmember Fries stated there will be no worry of trees falling down and going through the wall.

Assistant City Manager Poole stated the City's right-of-way areas have been cleared. On the property owner's side there are still large trees that they will be responsible for. All the trees within the right-of-way have been removed and the City will prevent trees from growing back in these areas.

Councilmember Fries asked if the City will cover 100% of the wall slope with the metal mesh.

Assistant City Manager Poole stated the right-of-way extends roughly 2/3 of the way up the slope. The upper 1/3 of the slope is private property. The property owners have the ability to allow an encroachment permit for the stabilization to be installed.

Councilmember Sterling asked if the property owners have agreed to the encroachment permit.

Assistant City Manager Poole stated the property owners are aware of it. Now that staff has plans, the plans will be shown to the property owners to detail the actual easement area the City needs. It is not a requirement that each property owner has to agree to.

Councilmember Karen Meinzen McEnery stated she spoke to Councilmember John Paulson who explained the highest wall has panels that can be removed and stabilized if debris has fallen into them. She is aesthetically driven as well as functionally. Granite rubble would be her preference for the higher wall facing. You cannot do granite rubble on the higher wall, because granite rubble facing requires a permanent wall, and this wall design specifies a semi-permanent wall that can be pulled up and the ground behind it stabilized if debris falls down. She agrees to the stabilization plan presented. She asked about the lower wall jersey concrete barrier. If that wall is going to be installed, she would like it to be with the granite rubble. To keep the pattern of the quality in the neighborhoods, she asked if granite rubble can be the facing on the small barrier.

Assistant City Manager Poole stated he would not recommend it. If an errant car were to hit the wall, it would take pieces of the granite out. It is a costly expense as well.

Councilmember Meinzen McEnery asked how much the granite rubble faced wall would cost.

Assistant City Manager Poole stated the barrier wall cost would almost double to add the granite facade.

Councilmember Meinzen McEnery stated the walls cannot be covered with beautiful yellow vines. Whether a car hits a piece of concrete or granite that has been affixed, the car will still be damaged. Vegetation cannot be grown over the ugly small barrier at the bottom. She asked that the rubble standards being used on other sidewalk low wall projects be used on this project. She would like to see quality work in the City.

Councilmember Gabriel Sterling stated he does not disagree with what Councilmember Meinzen McEnery said. A specific answer has not been given regarding the cost. He asked what the price of the whole project will be with the granite face low barrier wall; or what other options are available to make the wall more aesthetically pleasing, instead of a jersey looking barrier.

Councilmember Chip Collins asked if a guardrail can be installed.

Assistant City Manager Poole stated there will be a guardrail tied onto the barrier wall on each end.

Mayor Galambos asked if Assistant City Manager Poole can research the aspect of the lower wall and come back to Council with alternatives next week.

Assistant City Manager Poole stated he will do that. In the interest of time, something needs to be done quickly, because bids are due this Friday. Work will begin in December. There is a requirement for the contractor to work seven days a week; Monday through Friday from 7:30 a.m. to 6:00 p.m. and Saturday and Sunday from 9:00 a.m. to 6:00 p.m. They will not be allowed to work Christmas Day or New Year's Day. The completion date must be February 28, 2014. During this time Lake Forrest Road will remain closed. If the work can be completed faster, it is encouraged. After this evening, staff will continue with further updates on public outreach to the specific communities, and neighborhoods. Next Tuesday this item should be before Council for recommendation on the project award.

Mayor Galambos stated this process has been very efficient in getting this much work done.

Assistant City Manager Poole thanked the Mayor. Everyone has been working hard as well as the consultant, and he appreciates everyone's patience and cooperation.

Councilmember Meinzen McEnery stated it has only been 2 ½ months since the design was discussed and only 2 ½ months to finish the project.

PUBLIC COMMENT

There were no public comments.

EXECUTIVE SESSION – Litigation and Real Estate

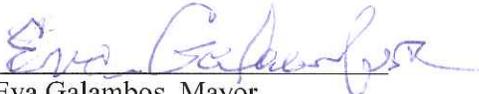
Motion and Vote: Councilmember DeJulio moved to enter into Executive Session to discuss litigation and real estate matters. Councilmember Paulson seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive Session began at 7:39 p.m.

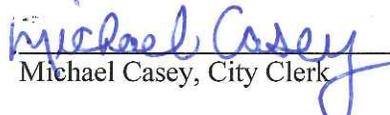
Motion and Vote: Councilmember DeJulio moved to adjourn Executive Session. Councilmember Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnery voting in favor of the motion. Executive session adjourned at 8:48 p.m.

ADJOURNMENT

Motion and Vote: Councilmember DeJulio moved to adjourn the meeting. Councilmember Fries seconded the motion. The motion carried unanimously. The meeting adjourned at 8:49 p.m.

Date Approved: November 12, 2013


Eva Galambos, Mayor


Michael Casey, City Clerk

CITY OF SANDY SPRINGS, GA

STATE OF GEORGIA
FULTON COUNTY

November 12, 2013

AFFIDAVIT FOR EXECUTIVE SESSION

Personally comes Eva Galambos, Mayor of the City of Sandy Springs, who on oath says that to the best of her knowledge and belief, on the 12th day of November, 2013, in the city aforesaid, a meeting of the Council was closed to the public for the following reason(s):

Discussion or voting on real estate matters pursuant to O.C.G.A, 50-14-3(b)(1);

Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved, pursuant to O.C.G.A. 50-14-2(1).

and that except for the foregoing, no portion of the closed meeting involved discussion, presentation, or action on any other matter.



Eva Galambos, Mayor

Sworn to and subscribed before me,
this 12th day of November, 2013.



Notary public (SEAL)

