

**Regular Meeting of the Sandy Springs City Council was held on Tuesday, August 20, 2013, at 6:00 p.m., Mayor Eva Galambos presiding.**

**INVOCATION**

Reverend Ron Gilreath, Mount Vernon Presbyterian Church, offered the invocation.

**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.

**PLEDGE OF ALLEGIANCE**

Mayor Eva Galambos led the Pledge of Allegiance

**APPROVAL OF MEETING AGENDA**

**Motion and Vote:** Councilmember Fries moved to approve the Regular Meeting agenda for August 20, 2013. Councilmember Paulson seconded the motion. The motion carried unanimously.

**CONSENT AGENDA**

**(Agenda Item No. 13-146)**

1. Meeting Minutes:
  - a) August 6, 2013 Special Called Meeting
  - b) August 6, 2013 Regular Meeting
  - c) August 6, 2013 Work Session

*(Michael Casey, City Clerk)*

**Motion and Vote:** Councilmember DeJulio moved to approve the Consent Agenda for August 20, 2013. Councilmember Paulson seconded the motion. The motion carried unanimously.

**PRESENTATIONS**

1. SAVE Award for January 6, 2013, Meridian Mark Road – Fire Department

**Fire Chief Jack McElfish** asked the families of the Fire Department and Rural Metro employees to stand and be recognized. He introduced Ken Simpson, the new General Manager of Rural Metro, and Davina Holston, the Rural Metro North Fulton Operation Manager.

On January 6, 2013, Sandy Springs Fire Rescue responded to a cardiac arrest at an assisted living facility at the 5400 block of Meridan Marks Road. Sandy Springs personnel arrived within one minute and found the patient not breathing and without a pulse. Sandy Springs personnel and arriving Rural Metro Ambulance crews immediately began working together simultaneously in an attempt to restore circulation in the patient. The patient was absent of a shockable rhythm, but through excellent CPR by the Sandy Springs automatic compression machine (The LUCAS) the patient regained a pulse and a normal cardiac rhythm. Efforts of knowledge, experience, and team work produced a successful outcome. The Sandy Springs Fire Rescue crewmembers that were involved in the rescue include: Fire Rescue Technician II/ Paramedic Micah Whitlock, Fire Rescue Technician II/ EMT Trenard Foster, Fire Rescue Technician I/ Bobby Duggar, Fire Rescue Technician I/ EMT Jason Ellis, Fire Rescue Technician I/ Paramedic Royce Turner, and Fire Rescue Technician I/ EMT Rick Reeves. The Rural Metro Ambulance Crew includes: Archie Patrum/ Paramedic and Alan Davis/ EMT.

2. SAVE Award for January 26, 2013, Roberts Drive – Fire Department

**Fire Chief Jack McElfish** stated on January 26, 2013, Sandy Springs Fire Rescue responded to a person not breathing and units were advised that CPR was in progress at the 9400 block of Roberts Drive. Sandy Springs personnel arrived within two minutes of receiving the call. The patient was found not breathing and in cardiac arrest. On scene, the patient was prepared for rapid transport, advanced airway was placed, and cardiac procedures were done. En route to the hospital the patient regained a normal rhythm and “State of the Art” hypothermia care was initiated to ensure full recovery of brain function. If not for this emergency medical response team, this patient could not have arrived at the hospital alive. The Sandy Springs Fire Rescue crewmembers that were involved in the rescue include: Crew Chief Danny Thompson/ Paramedic, Fire Rescue Technician II/ EMT Jesse Luttrell, Fire Rescue Technician II/ EMT Chris Cagle, Fire Rescue Technician II/ EMT Joey Kendall, and Fire Rescue Technician II/ Paramedic Ben Brasher. The Rural Metro Ambulance Crew includes: Richard Wheat/ Paramedic and Terence Evans/ EMT.

3. SAVE Award for February 17, 2013, Meridian Mark Road – Fire Department

**Fire Chief Jack McElfish** stated on February 17, 2013, Sandy Springs Fire Rescue responded to a cardiac arrest at an assisted living facility on the 5400 block of Meridan Marks Road. On scene, a rapid assessment was done and the patient was found unconscious, pulseless, and not breathing. Staff advised Sandy Springs personnel that the patient had been down a prolonged amount of time and the arrest was un-witnessed. The patient was aggressively and quickly treated with advanced life support measures that included: CPR, airway management, and intraosseous vein access (in the bone) for quick advanced life support medications. Sandy Springs Fire Rescue and Rural Metro Ambulance personnel displayed outstanding teamwork and critical thinking that had a positive outcome. The patient’s heart, blood pressure, and pulse returned upon arrival to the local hospital. The Sandy Springs Fire Rescue crewmembers that were involved in the rescue include: Fire Rescue Technician I/ Paramedic Ryan Rauch and Fire Rescue Technician II/ EMT Chris Milesenko. The Rural Metro Ambulance Crew includes: Jesse Haney/ Paramedic and Dan Robinson/ EMT.

4. SAVE Award for January 17, 2013, Roswell Road – Fire Department

**Fire Chief Jack McElfish** asked Annie Reese to the front. He stated on January 17, 2013, Sandy Springs Fire Rescue responded to a 49 year old patient with chest pain at an apartment on the 6900 block of Roswell Road. On scene, the patient complained of having severe chest pain. Patient was alert and oriented, and placed on high-flow oxygen. Cardiac protocol was started and the patient rapidly went in full cardiac arrest. The patient stopped breathing on scene and CPR was initiated and patient was immediately defibrillated to a normal cardiac rhythm. The patient regained full consciousness was able to

open her eyes, and speak in sentences upon arrival of local hospital. This patient had great care and treatment by Sandy Springs Fire Rescue and Rural Metro Ambulance personnel. The Sandy Springs Fire Rescue crewmembers that were involved in the rescue include: Fire Rescue Technician II/ Paramedic Jeremy Green and Fire Rescue Technician I/ EMT Adam Daniele. The Rural Metro Ambulance Crew includes: Clayton Fraser/ Paramedic and Kirk Caldwell/ EMT.

**Annie Reese Sandy Springs resident** thanked the Sandy Springs Fire Department and Rural Metro for saving her life.

## **PUBLIC HEARINGS**

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

### **Zoning Modifications**

#### **(Agenda Item No. 13-147)**

1. **201202129** - 5730 Glenridge Drive, *Applicant: 5730 Glenridge Partners LLC*, to modify conditions 4 & 6 of Z79-0074 to allow driveway access onto Glenforest Road

**Manager of Planning and Zoning Patrice Dickerson** stated this item was deferred from the June 18<sup>th</sup> City Council meeting. Staff had a meeting with the applicant and the neighbors. At this time, staff is recommending withdrawal of the application at the request of the applicant.

**Nathan Hendricks, representative of the applicant**, stated the applicant and neighbors tried to work through the issues of this application. The biggest issue the applicant was having is reaching closure with the neighborhood regarding if the relief that is being sought is necessary. All would be best served by waiting to see what ramifications are brought to the area by future development. The applicant may come back to the City in the future with another application once the future circumstances are set in place. He requested the application be withdrawn.

**Ralph Edwards, owner of the medical building**, stated he appreciates the efforts of the neighborhood. He is hopeful an agreement can be made sometime in the future.

**Mayor Eva Galambos** called for public comments in support of the application. There were no public comments.

Mayor Galambos called for public comments in opposition to the application.

**Doug Falciglia, 5925 Brookgreen Road**, stated he is the President of the Glenridge Hammond Neighborhood Association. The neighborhood is satisfied with the outcome and a withdrawal is an appropriate action at this time. He asked that conditions of the withdrawal be added to the City record. He would like to see conformance to the original zoning of the property. Condition 4 states to provide a twenty-five foot natural undisturbed buffer, replanted where sparsely vegetated adjacent to the west and north property lines. The neighborhood would also like the City arborist to be responsible for inspecting and approving the project to assure it meets the correct standards. Some work has already been done on the west property line, which abuts the first house. The neighborhood would also like to see direction given to the medical building owner to honor the agreement with the Glenridge Hammond Neighborhood Association. The agreement would allow and provide funding for a six foot wall to be constructed along the north property line. During a previous variance application filed by Glenridge medical building owners, an agreement was made in return for support of the neighborhood for the variance. Included in the agreement was funding of up to \$25,000 for the wall that the building owner would provide. He asked for this item to be resolved.

Mr. Edwards stated he does intend to live up to the obligations. There was deferred work along the buffer awaiting the decision whether or not there is to be access to the traffic light. The building owner will not have access to the traffic light, but will still follow through with his commitments.

Mayor Galambos closed the public hearing.

**Motion and Second:** Councilmember DeJulio moved to approve the withdrawal of Agenda Item No. 13-147, the application for 201202129 - 5730 Glenridge Drive, *Applicant: 5730 Glenridge Partners LLC*, to modify conditions 4 & 6 of Z79-0074 to allow driveway access onto Glenforest Road. Councilmember Fries seconded the motion.

**Councilmember Tibby DeJulio** stated he has a copy of an agreement between the neighborhood and the building owner from 2006. Before any applications for this property are brought back to Council, he would like to see the property owner honor the commitments made in the past. The neighborhood has waited patiently for the past seven years and deserves to have this move forward.

**Councilmember Chip Collins** asked if one of the two items that the neighborhood wants accomplished is regarding the previous zoning and the other is a private agreement. Council can enforce a condition of zoning through the City's Code Enforcement department, but cannot enforce the agreement. He asked if Council could make the agreement a condition of the withdrawal.

**City Attorney Wendell Willard** stated he would encourage Council to not do that. Council would then be getting in the middle of a private agreement between the parties. The issue of dismissal of the application is not an action item as far as a zoning action.

Councilmember Collins stated he is fine with the motion. The neighborhood always has the ability through the court system to enforce the agreement.

Mayor Galambos stated there is good faith between both parties.

**Vote on the Motion:** The motion carried unanimously.

**(Agenda Item No. 13-148)**

2. **201301779** - 5776, 5792, 5806, 5820, 5836, 5850, 5866, 5880 Glenridge Drive, *Applicant: Pulte Home Corporation*, to modify condition 2.a. (site plan) of Sandy Springs zoning case 201300437, with a concurrent variance to reduce the 40 foot perimeter setback (front)

**Manager of Planning and Zoning Patrice Dickerson** stated this item is a request to modify the site plan for the townhouse development that was recently approved by Council. This would include a concurrent variance to reduce a forty foot front perimeter setback with the requirement for the separation of the building with seven units into three and four unit buildings. The applicant is requesting an encroachment into the front setback. Staff is recommending approval conditional of the modification and concurrent variance.

**Ted Turner, Pulte Homes**, stated he concurs with the recommended conditions as presented by staff and asked Council to approve the application.

**Mayor Eva Galambos** stated this application is a result of Council's dividing up the units from one building.

Mr. Turner stated the building with seven units is being changed to a four unit and a three unit building in order to fit in the two buildings and a driveway.

Mayor Galambos stated in order for the applicant to satisfy what Council requested, the variance is needed.

**Councilmember John Paulson** asked if the encroachment goes towards the street.

Mr. Turner responded yes, towards Glenridge Drive.

**Mayor Eva Galambos** called for public comments in support of the application. There were no public comments.

Mayor Galambos called for public comments in opposition to the application.

**Doug Falciglia, 5925 Brookgreen Road**, stated he is the President of the Glenridge Hammond Neighborhood Association. He read a letter that stated, "We haven't had a great deal of discussion with Pulte about this. We have been working on resolving issues regarding the six foot berm that would provide visual screening for the neighbors along Timberlane and Pinebrooke. This was a condition of the rezoning. We met with Mr. Turner a couple of times and he wanted to focus on getting the berm resolved. The neighborhood was very happy with the City Council condition to split the building on Glenforest into two units. We were hoping for detached houses on Glenforest, the split was an acceptable alternative. Since the distance between the other buildings on the property is more than twenty feet we expected this would be the case for these buildings. This variance will allow distance of twelve feet between the units. In the brief conversation we had with Mr. Turner regarding the twelve foot separation we express an interest in creating a greater distance between the units, even if it further encroached on the east and west setbacks. We feel it will provide a more visually appealing look at the entrance of the neighborhood as well as making a better transition to the single family homes it will be next to." There has not been much conversation about the issue. Mr. Turner stated he would like to leave the application as it was submitted to staff. The neighborhood would like more space in the setback to allow more space between the buildings. If the buildings are further apart, they will be more visually appealing.

**Councilmember John Paulson** asked if the western building should move further west.

Mr. Falciglia stated whatever can be worked out. If the buildings can be moved further apart, they would be closer to the houses in the neighborhood. Currently, the plan will move the buildings ten feet closer to Glenridge. It would not affect anything moving the buildings closer to the western boundary. He would prefer more space between the buildings, because it would be more appealing, instead of having the buildings just twelve feet apart.

**Councilmember Dianne Fries** asked if Mr. Falciglia is requesting an encroachment on one side of the landscape buffer and then on the other side it would encroach into the buffer.

Mr. Falciglia stated he would like the option to explore what could be done to get more space in between the buildings. The discussions have mostly been regarding the berm. The neighborhood has not had much time to discuss the spacing between the buildings. There was conversation yesterday regarding the spacing and the applicant stated he wants to see the application move forward as it is.

**Councilmember Karen Meinzen McEnerny** stated perhaps you want the entire eight feet to actually go to the east. Perhaps you want to keep the western encroachment and if he is going to make it wider, that it go further into the front.

Mr. Turner stated he would be fine with further separation between the buildings as suggested. However, if going west towards the neighborhood, there would be encroachment into the landscape buffer that is well established. There are signed agreements with the neighborhood that would be affected. Within the

landscape buffer are storm pipes. The building would have to encroach into the twenty foot storm easements. Moving the building west is not an option.

Mayor Galambos asked about moving the building east.

Mr. Turner stated currently there will be encroachment in the forty foot perimeter setback. The change would be to the forty-five foot perimeter setback and the thirty-five foot landscape strip towards Glenridge to make the separation.

Mayor Galambos asked if that would be a problem.

Mr. Turner responded no.

Councilmember Paulson stated the corner of the building would stick out.

Mr. Turner stated that is correct. The building would go into the landscape buffer along Glenridge.

Mayor Galambos closed the public hearing.

**Motion and Second:** Councilmember Fries moved to approve Agenda Item No. 13-148, 201301779 - 5776, 5792, 5806, 5820, 5836, 5850, 5866, 5880 Glenridge Drive, *Applicant: Pulte Home Corporation*, to modify condition 2.a. (site plan) of Sandy Springs zoning case 201300437, with staff conditions and a concurrent variance to reduce the 40 foot perimeter setback (front), and landscape strip to 22 feet, creating a 20 foot building separation between the buildings adjacent to Glenforest Road. Councilmember Sterling seconded the motion.

Staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. Townhouses at a density of 7.65 units per acre or 63 units, whichever is less.
2. To the owner's agreement to abide by the following:
  - a. To the site plan received by the Department of Community Development on ~~April 5, 2013~~ June 4, 2013. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, the applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
  - a. A 25-foot landscape strip planted to buffer standards along the length of the westerly property line meeting the following standards:
    - i. A six (6) foot earthen berm (slopes no greater than 3:1)
    - ii. Two staggered rows of the following evergreen trees at 14 feet in height (planting spaced 14 feet on center) planted atop the 6-foot berm creating a visual screen using the following trees: Cryptomeria, Southern Magnolia, American Holly

- iii. Remainder of landscape strip planted to buffer standards to be planted with a mix of one third deciduous trees (3 ½ in. caliper, 30 feet on center), one third large evergreen shrubs (8-10 ft. at 12 feet on center), and one third medium evergreen flowering shrubs (6-8 feet in height at 8 feet on center)
  - iv. All planting subject to the approval of the City of Sandy Springs Arborist
  - v. All plantings to be installed prior to the issuance of the first building permit.
- b. Prior to the issuance of the Land Disturbance permit, provide analysis of downstream conveyance conditions and capacities along the downstream conveyances between the project site and the point at which the project site drainage basin area is no greater than 10% of the total drainage basin area. Development shall provide stormwater management facilities as necessary to avoid exceeding capacity of downstream conveyances for up to a 100 year storm event between the site and the 10% point. Where proposal will result in a concentrated surface flow across a property line where no existing channel or pipe exists to receive and convey a concentrated flow developer shall obtain, execute, and record a drainage easement from property line to location of a conveyance possessing capacity to convey a 100 year concentrated flow or to the 10% point. Drainage from all new improvements shall be routed to the detention system.
- c. Townhouses adjacent to the westerly property line shall not exceed 2-stories in height.
- d. Developer shall construct a fence along the westerly property line with a brick column 7 feet in height, 24-square inches at each intersecting property line corner of the adjacent single family residential lots. Between the columns shall be constructed a decorative metal picket fence between the columns, 6 feet in height along the length of the westerly property line in accordance with Sandy Spring Code.
- e. Developer shall construct a fence along the Glenridge Drive (easterly property line) with a brick column 7 feet in height, 24-square inches, every 48 feet. Between the columns shall be constructed a decorative metal picket fence between the columns, 6 feet in height in accordance with Sandy Spring Code.
- f. No vehicular access is permitted from Glenforest Road.
- g. No construction access is permitted from Glenforest Road.
- h. All building facades shall be a minimum of 70% brick or stone, excluding garages. All rear building facades adjacent to Glenridge Drive and Glenforest Road shall have faux front facades, with an architectural treatment subject to the approval of the Director of Community Development.
- i. All Garage doors shall have an upgrade architectural treatment such as carriage style architecture, subject to the approval of the Director of Community Development.
- j. Units 41-47 (adjacent to Glenforest Road) as show on the plan received by the Department of Community Development on April 5, 2013 shall be split into 3 units / 4 units or 3 units / 3 units sections. The units adjacent to the westerly property line shall remain as shown on approved site plan.
- k. To reduce the forty (40) foot perimeter setback and landscape strip to twenty-two (22) feet to create a twenty (20) foot building separation between the buildings adjacent to Glenforest Road. (CV 201301779)

Mayor Galambos asked if this is an additional eight feet compared to what the applicant is currently asking.

Councilmember Fries responded yes, and the motion is asking for a different area also.

Councilmember DeJulio stated he received an email today from Garrin Smith. He quoted the email which states, "Most of the troubles are neighborhood obstructionism delaying your start." He takes objection to a corporation or anyone accusing neighbors who are trying to protect their homes and lifestyle of being accused of obstructionism. These are neighbors who have lived in the area way before the developer submitted this application. Saying the neighbors are being obstructionist is an insult to the neighbors and to the Council who represent the homeowners. Council does not represent Pulte Homes or developers. The neighbors should be given more polite conversation and treatment.

Councilmember Paulson asked what the impact is of the building moving eight feet to the east versus the other discussion of moving part of the building to the west. He asked if the applicant has looked into adding eight more feet to the right hand side.

Manager of Planning and Zoning Dickerson stated the only concern that staff has is about the right-of-way dedication, but she thinks the applicant will be fine based on how the property line is shown. That was taken into account already.

Councilmember Paulson asked if the applicant can still add eight more feet and not cross that line.

Manager of Planning and Zoning Dickerson responded yes.

Councilmember DeJulio stated going back to the email previously mentioned there have been issues with staff's interpretation of some of the conditions.

Manager of Planning and Zoning Dickerson stated the issue is regarding the berm. The language that the neighborhood prepared for the condition related to the berm is very specific. The way staff has interpreted the language creates issues with Pulte being able to have enough space for the buildings. Pulte is working with the neighbors to determine how they can satisfy the intent of the condition with the language the way it is.

**Councilmember Gabriel Sterling** stated Pulte agreed to the language.

Manager of Planning and Zoning Dickerson responded yes.

Councilmember DeJulio asked if there were to be a change to the language, would it have to come before Council again.

Manager of Planning and Zoning Dickerson stated if each individual property owner signs off on the language that staff has discussed with the neighborhood and Pulte, it can be done as an administrative modification. If there is not an agreement, the applicant would have to come back to Council.

Mayor Galambos stated the motion on the floor is to approve moving the building eight feet.

Councilmember Fries stated Council would be approving this application to modify condition 2.a.

Manager of Planning and Zoning Dickerson stated the motion should state concurrent variance to reduce the forty foot perimeter setback and forty foot landscape strip to twenty two feet. The landscape is changing from forty feet minus the eighteen feet.

Councilmember Fries stated the applicant can construct the buildings with twelve feet of separation.

Manager of Planning and Zoning Dickerson responded no. The request before Council now is for the twelve foot separation, which would create a ten foot encroachment, and now eight feet is being added.

Councilmember DeJulio asked if this has been conditioned to separate the buildings. The intent of the eight feet is to make the buildings further apart.

Mayor Galambos stated that was included in the original approval of the application.

Councilmember Fries stated she wants to make sure her motion is clear. The additional eight feet is to change the separation of the buildings from twelve feet to twenty feet.

**Vote on the Motion:** The motion carried unanimously.  
**Ordinance No. 2013-08-19**

### **Resolutions**

**(Agenda Item No. 13-149)**

3. Resolution to Authorize the Transmittal of the Draft Annual Capital Improvements Element (CIE) Update to the Regional Development Center and State for Review and Comment

**Manager of Planning and Zoning Patrice Dickerson** stated this item is the annual update for the impact fee ordinance and the short term work program. Staff is recommending approval of the transmittal of the document to the Atlanta Regional Commission (ARC).

**Councilmember Karen Meinzen McEnerny** stated in other localities, such as the City of Atlanta, they spend impact fees in the general area where they are generated. How come in the attachments all of our projects are all shown as citywide?

**City Attorney Wendell Willard** answered that is a choice established through Council policy. At one time in Atlanta, the spending of impact fees was citywide. Due to various concerns, the policy in Atlanta was changed. The policy for Sandy Springs is to use the impact fees citywide.

Councilmember Meinzen McEnerny stated she would assume that most of the impact fees included in the agenda package were generated around the Perimeter Center area. The impact fees being generated throughout each district of the City are not evenly balanced. Councilmember Paulson's District probably does not generate a significant amount of impact fees. This is why Sandy Springs chose the citywide option. If it ever appears in the future that the impact fees can be reallocated differently, it could be done.

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

**Motion and Vote:** Councilmember Sterling moved to approve Agenda Item No. 13-149, a resolution to Authorize the Transmittal of the Draft Annual Capital Improvements Element (CIE) Update to the Regional Development Center and State for Review and Comment. Councilmember Fries seconded the motion. The motion carried unanimously.

**Resolution No. 2013-08-45**

**(Agenda Item No. 13-150)**

5. Resolution to Authorize the use of Eminent Domain to Acquire Property Located at 245 Johnson Ferry Road, N.E., Sandy Springs, Georgia, Parcel ID: 17-0089-LL-114-8 ("Property") for Public Use

**City Attorney Wendell Willard** stated this property is known as the Sherwin Williams parcel. The maps provided to Council show the parcel is located on the northwest corner. This location is part of the public area planned for the City Center Master Plan. After the adoption of the master plan, staff started to seek acquisition of the properties in the area. A letter was sent to the Sherwin Williams property owners stating the City desires to acquire the property. City staff met the statutory requirements of notifying Sherwin Williams after the appraisal was completed. The amount the City offered for the property was \$1.250 million. The property owner declined to sell the property or enter into discussions to sell the property at that time. Since that time, the City has heard nothing back from Sherwin Williams. The City notified Sherwin Williams in July, 2013, that the City will be seeking a resolution from Council to exercise the power of eminent domain. The City also asked if the property owner would be willing to waive the requirement of the law to have a sign posted on the property. A sign was posted on the property. This is a request to exercise the power of eminent domain. This is necessary for the City to continue on the timeline to have acquisition of the properties by the end of this year.

**Scott Jacobson, attorney for the applicant,** stated in attendance this evening is Brent Williams who is the Director of Real Estate Southeast Division for Sherwin Williams. Last week, on behalf of Sherwin Williams a written request was filed with the City asking to postpone the consideration of the resolution authorizing the City's use of eminent domain. The request to postpone was made specifically because Sherwin Williams has not had adequate time to prepare a documented proposal for the City to purchase the property and business operating at 245 Johnson Ferry Road. The City twice has made offers to buy the property. The first proposal was made in 2010 and was less than the amount City Attorney Willard indicated. The second proposal from the City was received in January 2013. It was not until late July 2013 when the City notified Sherwin Williams that the City intended to use the power of eminent domain. It was at that point that Sherwin Williams understood, with some degree of certainty, that it is the City's will to take this property for the City Center project. Sherwin Williams has operated this store since September 1, 1982. The property was developed as a Sherwin Williams store and is the original store that was built. This free standing store serves both the local do-it-yourself painters as well as contract professionals. The location, which is well signed and marked with ample parking, is well known to and understood by the customers. The business operating there is healthy in having survived the home building downturn a few years ago. It is not Sherwin Williams desire to close this unique location. Nevertheless, Sherwin Williams recognizes that the City is embarking on a definite course to use the property for something other than a Sherwin Williams store. He asked for sixty days to put together a documented proposal for the City to purchase the property, without having to incur the substantial legal costs, distractions, and losses of energy that would be generated by a condemnation lawsuit filed by the City. Once filed, the condemnation procedure requires immediate legal attention and creates immediate adversity. Both the City and Sherwin Williams will be incurring legal fees and expenses for expert evaluations, investigations, expert opinions, special master hearing, special master selection, assessor selection, court filings, and other legal activities that are part of the eminent domain process. All of that will distract from negotiations, potentially making the cost of this acquisition higher for the City, and the whole process expensive for Sherwin Williams. The process will create a spirit of adversity rather than a spirit of cooperation. Cooperation is an ingredient that is needed to make a deal, if that is what the City wants. In a best case scenario for Sherwin Williams, the City would withdraw, abandon, or defeat the current resolution and not exercise the power of eminent domain. The site is unique and a good business that is operating and is wholly compatible with the City Center project. Nevertheless, if it remains the will of Council that the parcel at issue must give way to the City Center project, as it appears now, he asked for the sixty day delay of the resolution to exercise eminent domain. The sixty day period will allow Sherwin Williams to prepare and present to the City a reasonable proposal for the property and the business. In addition, the time will give the City a reasonable amount of time to respond before the City

must file in court formal condemnation proceedings to take the property, if that is still necessary. It will also give the City a chance to view Sherwin Williams's evaluations of the property and business before the City elects to proceed and spend the money. It is in the best interest of the other citizens of Sandy Springs and Sherwin Williams to delay the resolution for sixty days. He requested that Council delay the resolution for sixty days to mid-October. Sherwin Williams would pledge to deliver before then a proposal for the City to acquire the property and negotiate with the City in good faith to see if common ground can be reached.

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

Mayor Galambos asked if the City has been offering to negotiate with Sherwin Williams for the better part of a year.

City Attorney Willard stated the negotiation goes beyond that date. The City stopped negotiating from the 2010 time frame to when the Master Plan was adopted. After the plan was adopted, staff was given direction to proceed with acquiring properties. The City has been open to negotiations. An offer letter to negotiate was sent to Sherwin Williams and their response was they were not wanting to sell and there never was further discussion from them.

**Councilmember Dianne Fries** asked if the eminent domain resolution is delayed, would that in turn delay the City issuing an RFQ and RFP for the project.

**City Manager John McDonough** stated he does not believe so.

Councilmember Fries stated the City has been discussing where the project will be located for over four years. For the better part of two years the City has been adamant about where the project will be and how much land will be needed.

Mayor Galambos stated the City has been offering to negotiate with each parcel's property owner.

Councilmember Fries stated if the Council approves the resolution, there is still time to work out a purchase. Several times the City has negotiated a deal. Actually, every time the City has negotiated a deal.

City Attorney Willard stated even if Council adopted the resolution this evening, the City cannot file anything until thirty days have passed. Upon filing there will be a delayed time to discuss with the parties a special master hearing schedule. The Council's direction was to have the properties acquired. It is now the last four months of the year. It takes at least four months to reach a resolution on the acquisition of the property.

**Councilmember Chip Collins** stated Sherwin Williams has had two years knowing this was going to occur. As a lawyer there are two modes, one being cooperative negotiation; and the other is once litigation has been filed, the litigation takes on a life of its own. Now Sherwin Williams is stating they want to explore a resolution. Council's preference is to have a win-win resolution. He would like to find a way to accommodate Sherwin Williams, so they can spend the next thirty days concentrating on getting an appraisal in order to make the City an offer on the property before the thirty days expires. If Council approves the resolution, there is nothing Sherwin Williams has to do for the next thirty days.

City Attorney Willard stated the City does not file anything for the next thirty days.

Councilmember Collins asked if Sherwin Williams came to the City in twenty-nine or thirty days with an offer to at least begin to negotiate, would there be a time deadline in which the City would have to file the action with the court.

City Attorney Willard the City would then be in a negotiating stage, if there is a good faith offer from Sherwin Williams.

Mayor Galambos stated on day twenty-nine, if Sherwin Williams makes an offer to the City, the City is not obligated to continue the condemnation on day thirty-one.

City Attorney Willard responded no, the City is not.

**Councilmember Gabriel Sterling** asked when the City sent a letter to Sherwin Williams letting them know the City wants to purchase their parcel and may use eminent domain.

City Attorney Willard responded none of the letters stated the City wants to purchase the property or the City will condemn. The letter stated the City is authorized to purchase the property. The City offered to purchase the property from Sherwin Williams during January 2013. Sherwin Williams responded on February 5, 2013, stating they are not willing to sell or negotiate. The City then notified Sherwin Williams on July 9, 2013, that the City will seek condemnation.

Councilmember Sterling stated that was about forty-one days ago. He asked if the City has passed only one eminent domain resolution for the City Center so far. This will be the second property on which the City has begun the proceedings of eminent domain.

City Attorney Willard responded yes.

Councilmember Sterling stated the City Center plan was passed in December of 2012. The attorneys do tend to talk in a good faith effort or not. He asked if the resolution was delayed thirty days, would it put the City outside the end of the year time frame for acquiring the properties.

City Attorney Willard stated if the resolution is not passed now, when it is passed there is a requirement to wait thirty days before an action can be filed in court.

Mayor Galambos stated there will still be the thirty day waiting period, if the resolution is passed this evening.

**Councilmember Tibby DeJulio** stated the City's resolution and negotiations with the property owner could be on parallel paths for the next thirty days.

City Attorney Willard stated at the end of the thirty day period, hopefully staff will have information to bring to Council regarding a negotiation.

**Councilmember Karen Meinzen McEnerny** stated parallel tracks are wonderful when acquiring or disposing of real estate. The City should balance the objectives, which are to acquire the land in the City Center site area, with the community needs, as well as allowing them to have an additional thirty days to work in a good faith manner. This gives the City flexibility. The City has been trying to acquire this property since 2010. Sherwin Williams knew the City was going to proceed with the eminent domain proceedings.

**Councilmember John Paulson** stated Sherwin Williams has been a long standing citizen and business within Sandy Springs for the last twenty years. It stuns him that Sherwin Williams did not think the City was serious about developing the City Center. He sympathizes with Sherwin Williams, but it is not as if this has been a secret.

**Motion and Second:** Councilmember Paulson moved to approve Agenda Item No. 13-150, a resolution to authorize the use of Eminent Domain to Acquire Property Located at 245 Johnson Ferry Road, N.E., Sandy Springs, Georgia, Parcel ID: 17-0089-LL-114-8 ("Property") for Public Use. Councilmember Fries seconded the motion.

Councilmember Meinzen McEnery stated she would like Council to consider a method by which the City can encourage a thirty day good faith period.

Mayor Galambos stated the thirty day period is automatic.

Councilmember Meinzen McEnery stated that is the intention of Council.

Mayor Galambos stated the reason Council likes this motion is because it includes an automatic thirty day period.

City Manager McDonough stated the second City Council meeting in the month of September is on the 17<sup>th</sup>, and short of the thirty day period. It is the intent of staff to work with Sherwin Williams to try and come to an agreement. Staff would like to have this agreement before the 17<sup>th</sup> in order to bring an update to Council. Depending on where the deal is at during the thirty days, staff can make a determination to move forward with eminent domain or to make a deal on the property.

**Vote on the Motion:** The motion carried 5-1, with Councilmember Sterling voting in opposition.

**Resolution No. 2013-08-46**

Councilmember Collins stated as long as the City is progressing and has a good faith offer, he would be inclined to wait even longer than the thirty day period.

Mayor Galambos stated Council would like the Sherwin Williams business to remain in Sandy Springs.

City Attorney Willard stated the City will assist in finding locations within the City, if Sherwin Williams chooses to relocate their business in the City.

**UNFINISHED BUSINESS**

**(Agenda Item No. 13-151)**

1. Authorization to Acquire Property Under Grant HMGP 1858-0006 (825 Windsor Parkway)

**Assistant City Manager Eden Freeman** stated this item is a request to authorize staff to purchase the property at 825 Windsor Parkway. This will be the eleventh and final property to be purchased under the grant, which was initially awarded to the City in November 2010. In March 2012, the City received a second award under the grant from GEMA and FEMA. By purchasing this property, the City will own three contiguous parcels on Windsor Parkway at Nancy Creek. Later this evening during the Work Session there is a presentation that will request feedback from Council on how to utilize the properties. At this point, the agenda item is only asking Council to approve purchase of the last property.

**Mayor Eva Galambos** asked if the City will pay to purchase the property.

Assistant City Manager Freeman responded no. The homeowner has agreed to contribute the required 15% match, just as the other ten homeowners contributed the 15% match.

**Councilmember Tibby DeJulio** asked if this is the property next to the bridge.

Assistant City Manager Freeman responded no. The City has already purchased that property and the one next to it. This property is the third property. All three of the properties were held up because of historic preservation review, but that has been completed.

**Motion and Vote:** Councilmember DeJulio moved to approve Agenda Item No. 13-151, Authorization to Acquire Property Under Grant HMGP 1858-0006 (825 Windsor Parkway). Councilmember Sterling seconded the motion. The motion carried unanimously.

**NEW BUSINESS**

**(Agenda Item No. 13-152)**

1. Acceptance of Grant Award PDMC-PJ-04-GA-2012-002 from the Federal Emergency Management Agency and the Georgia Emergency Management Agency

**Assistant City Manager Eden Freeman** stated this is a grant award the City recently received from GEMA and FEMA in response to an application staff submitted in December 2011. The City has been awarded this grant to purchase the properties listed on the first page of the agenda item. These properties include: 820 East Powderhorn Road, 4665 Hitching Post Trail, 830 East Powderhorn Road, 500 Pine Forest Road, 6270 River Shore Parkway, 805 East Powderhorn Road, 6230 River Shore Parkway, 510 Granite Ridge Place, 512 Granite Ridge Place, 514 Granite Ridge Place, and 516 Granite Ridge Place. This grant is slightly different than the HMGP Grant that was discussed earlier. This grant requires a twenty-five percent match. At the time of the application, each of the property owners voluntarily agreed to participate in the program. If Council chooses to accept this award, when staff is again discussing this grant with the homeowners, they may elect not to participate in the program.

**Councilmember Dianne Fries** asked if the homeowners knew about the increase.

Assistant City Manager Freeman stated the homeowners were told about the increase at the time of the application. However, conditions may change and a homeowner may choose not to participate.

**Councilmember Gabriel Sterling** asked how large the properties are for 510-516 Granite Ridge Place.

Assistant City Manager Freeman stated those are townhouses. In order for the City to purchase any of those parcels, the City has to buy all four of the parcels, due to shared walls.

**Mayor Eva Galambos** asked if the Powderhorn properties are adjacent to Windsor Parkway.

Assistant City Manager Freeman stated those properties are near, but not adjacent.

**Motion and Vote:** Councilmember DeJulio moved to approve Agenda Item No. 13-152, Acceptance of Grant Award PDMC-PJ-04-GA-2012-002 from the Federal Emergency Management Agency and the Georgia Emergency Management Agency. Councilmember Sterling seconded the motion. The motion carried unanimously.

**Resolution No. 2013-08-47**

**(Agenda Item No. 13-153)**

2. Proposed Resolution Declaring a Moratorium on Permits for Wireless Support Structures For Distributed Antenna Systems

**City Attorney Wendell Willard** stated this is a resolution for a moratorium on a new technology. There have been inquiries to the City regarding possible uses of this technology. Staff is concerned regarding structures that may be used for the location of this equipment. In order to allow time to study the technology and how it is to be applied to existing telephone poles or new poles in the area, it is important to delay potential permit applications and approvals.

**Councilmember Gabriel Sterling** stated these antennas hang from existing telephone poles.

City Attorney Willard stated these items hang from existing telephone poles or new poles that are installed.

**City Manager John McDonough** stated this is a new technology. It is prudent for staff to do research on this first and then make recommendations to Council.

**Councilmember Diane Fries** stated she took photographs of one of the antenna systems in another jurisdiction. The antenna is located on Ashford Dunwoody Road in the shopping center that has the Wal-Mart.

**Councilmember John Paulson** asked if the City's ordinance is silent on this item at the moment.

City Attorney Willard responded yes.

**Councilmember Karen Meinzen McEnerny** thanked City Attorney Willard and Assistant City Attorney Cecil McLendon for proactively protecting what could potentially adversely affect the community's quality of life. It is proactive to make sure the City's cell tower ordinance has the required protection for anything less than forty feet in height.

**Motion and Vote:** Councilmember Sterling moved to approve Agenda Item No. 13-153, a resolution Declaring a Moratorium on Permits for Wireless Support Structures For Distributed Antenna Systems. Councilmember Meinzen McEnerny seconded the motion. The motion carried unanimously.

**Resolution No. 2013-08-48**

## REPORTS

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

**Finance Director Karen Ellis** stated this is the final month of the fiscal year and the financials presented are unaudited. The numbers may be close to how the City will end for the year, but there may be adjustments when the auditors arrive.

**Councilmember Chip Collins** stated the past budget prepared in April or May was based on staff's projections. He asked if the unallocated fund balance is where staff thought the numbers would be.

**City Manager John McDonough** stated staff believes there may be more unallocated fund balance than expected, but due to the statements being unaudited, the numbers are not complete. As soon as the audited financials are available, staff will be in a position to make recommendations, if there are additional funds to allocate.

Councilmember Collins asked what the unallocated fund balance number may be.

Finance Director Ellis stated that number is located on page 20 of the report. The City is at a shortfall of \$3.5 million and originally it was budgeted at \$5 million.

City Manager McDonough stated the number will be more than \$1 million based on the current numbers staff has.

**Councilmember Karen Meinzen McEnerny** stated the number should be around \$1.5 million.

**Mayor Eva Galambos** asked about the sales tax. That number decreased quite a bit. Automobile sales were not included in the April, May, and June financials.

**Councilmember Gabriel Sterling** stated the automobile sales taxes were included in the numbers.

Mayor Galambos stated the automobile sales tax numbers are down because of the State law change.

Finance Director Ellis stated the Department of Revenue's formula for calculating how the automobile sales tax gets distributed is convoluted. There is a caveat that states municipalities should check at the County level to verify if the formulas are being calculated properly.

Councilmember Meinzen McEnery asked if the City has received their portion of the funds.

Finance Director Ellis responded not yet.

b) Roswell Road / I-285 Gateway Beautification Update – Angela Parker

**Director of Community Development Angela Parker** stated that at the Council Retreat in January 2013 there was a presentation on Gateway Beautification. Council voted to make the Roswell Road/I-285 corridor the priority one project for the City. The project will be part of a series of gateways into the City. In April 2013, the concept was developed. She displayed the concept staff saw in April. The concept includes a treatment of the bridge and plantings that frame the bridgework. Since then, staff has done work refining the project, particularly focusing on the landscaping in order to meet this year's planting season to ensure the plantings are installed. The project has gone quite well due to Assistant City Manager Poole's connections with GDOT. The City should have a permit from GDOT for landscaping this month. The design parameters are the same, but the other changes were made based upon Council's comments. Initially, pine trees were shown framing the bridgework. That has been modified to add seasonal interest and more variation. Staff focused on sustainable plant materials that do not require a significant amount of maintenance. There are utility constraints in the area. She referenced a drawing of the overall landscape design from a plan view standpoint. She referenced a drawing of the revised plant layout in terms of the plant materials. The illustration is the new planting design. There will be three plants included in the design. There will be a holly tree that will be trimmed to a tree form. A purple leaf redbud will be included as well. This is a smaller tree that has flowers in the spring and its leaves in the spring are purple. The third planting will be a Muhly grass that blooms in late August or September. The grass holds the bloom all winter.

**Councilmember Dianne Fries** stated landscapers notoriously plant things too close together. She wants this taken into consideration. The City does not want to have misshaped trees in twenty years because they are planted too close together.

Director of Community Development Parker stated that is one of the things that staff is looking at very closely. Staff is trying to balance the fact that the plant materials will grow, but when they are planted staff wants a "show" from day one.

Councilmember Fries stated she may prefer to delay the "show" of plants versus later having to cut down trees.

Director of Community Development Parker stated the muhly grass planted at the Abernathy corridor is planted two feet apart, has not bloomed and looks a little sparse.

Councilmember Fries stated her concern is not the grass, but the permanent trees.

**Mayor Eva Galambos** stated she thinks arborists should make the decisions regarding the plantings.

Director of Community Development Parker stated staff is working with the growers, because a few of the plantings are new species and are great for this climate.

Mayor Galambos stated she was driving down I-285 and saw huge signs on the Roswell Road Bridge. She asked if GDOT indicated these signs would be removed.

Director of Community Development Parker responded yes. Staff is working very closely with GDOT. The City Manager signed a letter with GDOT two weeks ago regarding the signs.

**Councilmember Karen Meinzen McEnery** stated along the southern part of the landscape design is a GDOT brick building. This design does not look balanced. One side of the landscape looks to be at a different angle. She wants to be sure the plans are balanced.

Mayor Galambos stated the hills on each side of the interstate are not the same.

Director of Community Development Parker stated the building is a constraint. She received an email today from Kaye Lynn Johnson, the Vice President of Design for The Collaborative, about the potential of moving that facility. Staff will look into this. On the plan, the view of the building is taken into account. The plan calls for not only planting, but grading. The muhly grass will be planted on the side and a flat plane will be built on top, where the tree plantings will be located, in order to raise the elevation of the trees.

Councilmember Meinzen McEnery stated staff will ensure this area will be as balanced as possible. It looks like some of the trees that are already there will stay.

Director of Community Development Parker stated the plan is to work with the trees that are already there.

**Councilmember John Paulson** stated during the budget hearings some of the funding for this project were moved. He asked if there is enough money for the Gateway funding project.

Director of Community Development Parker stated staff is working towards meeting the budget.

**Councilmember Gabriel Sterling** stated the total funding is \$1.25 million.

**Councilmember Chip Collins** stated he is in favor of the "show" now compared to possibly having to remove trees in the future.

Director of Community Development Parker stated the specifications for the design will be completed tomorrow. Staff received a verbal approval from GDOT and the permit should be issued this month. The critical item is to get the procurement advertised and to secure the plant materials. The design development is underway. Staff had a very successful meeting with GDOT to discuss the bridge. The goal for the bridge is to have a notice to proceed (NTP) issued to a contractor in March 2014.

Councilmember Meinzen McEnery asked if irrigation is involved.

Director of Community Development Parker responded no. Staff is proposing sustainable plant materials that can tolerate this environment.

#### **PUBLIC COMMENT**

**Susan Yeosock, 785 Lake Summit Drive**, stated it appears the closing of the southbound lane of Lake Forrest Drive was a very wise decision. There is a mudslide outside of her neighborhood. She displayed a photograph that showed the mudslide. There are two things that are missing. The first is the means to keep the dirt in place. Black netting should be covering the entire hillside to allow water to be released and contain as much dirt as possible. She referenced a photograph which is a better mud barrier that would keep the mud from moving down the street. She referenced another photograph that showed the current erosion control barrier. The City knew mud was going to be a problem, which is why the mud catch barriers in front of the drains in the neighborhood are visible in this photograph. The mud has the ability to get deep enough to make the road unpassable. As seen in a photograph she displayed, the mud is higher than the curb.

**Councilmember Gabriel Sterling** asked when the mud pile up occurred.

Ms. Yeosock responded Sunday night after the large rain. There is also the risk of sliding or hydroplaning on the collected mud. Along with the mud comes the possibility of damage to cars. This is unacceptable.

Councilmember Sterling stated the mud is past the road closure area.

Ms. Yeosock asked that staff try to keep as much mud from falling off the hill as possible and catch as much mud as they can that falls off the hill. She asked that staff prevent further harm to the residents of Lake Forrest Summit. Any corrective action that staff can provide is greatly appreciated.

**Councilmember Dianne Fries** asked if Ms. Yeosock notified staff of the mudslide.

**Director of Public Works Garrin Coleman** stated staff was notified and is taking action regarding the mud.

**Mayor Eva Galambos** stated the City has been extremely conscientious in terms of getting a study by experts as quickly as possible and remedying the situation with a contract to repair the slope. The City should receive credit for what has been done so far.

Ms. Yeosock thanked the City for fast-tracking the remedy for this area.

**Susan Yeosock, 785 Lake Summit Drive**, stated she is speaking as the President of Lake Forrest Summit Homeowners Association. This morning she requested a review of the July 16, 2013, City Council meeting minutes in which she spoke during the public comment section. From the approved minutes it states, "The HOA does not agree with the southbound lane opening of Lake Forrest Drive." Her exact words were, "Currently, the HOA gives the southbound a big flat F." In an email to her City Clerk Michael Casey stated, "To me an F is a failing grade and therefore we interpreted your statement to mean that the HOA does not agree with the southbound lane opening of Lake Forrest Drive, which is what the minutes from the meeting state. Otherwise, you would not have given the southbound lane opening a failing grade. I do not see a need to change the 7/16 meeting minutes as approved. I apologize if my meeting minutes are creating dissention within your HOA." She specifically told the homeowners via email that she would not take a position that the southbound lane should be closed. Under Article 3.6 of the Lake Forrest Summit by-laws, the membership can exercise the removal of directors. No HOA president should be faced with the potential of removal from office due to interpretation. Giving a big flat F is not the same as saying you are opposed, in her opinion. She knows the word opposed and would have used it. She thanked Council for allowing her to voice her concern.

**CITY OF SANDY SPRINGS, GA**

STATE OF GEORGIA  
FULTON COUNTY

August 20, 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 20<sup>th</sup> day of August, 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);

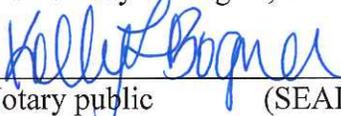
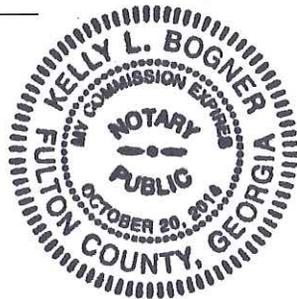
Attorney/client privilege in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any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

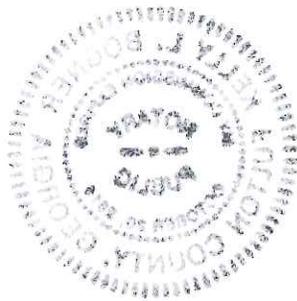
and that except for the foregoing, no portion of the closed meeting involved discussion, presentation, or action on any other matter.



\_\_\_\_\_  
Eva Galambos, Mayor

Sworn to and subscribed before me,  
this 20<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Notary public (SEAL)



**Councilmember Karen Meinzen McEnerny** stated Ms. Yeosock would like the July 16<sup>th</sup> minutes to state that the Lake Forrest Summit Homeowners Association felt the minutes are incorrect and that the lane opening is not working well.

Ms. Yeosock added she stated her thoughts on this for the record.

**Councilmember Gabriel Sterling** stated these meeting minutes will clarify what Ms. Yeosock wanted to say.

**Charlie Roberts, 310 Wilderlake Circle**, stated he agrees with Councilmember DeJulio's comment that Council represents the public and taxpayers and also City Attorney Willard's comment that it is late in the year. He asked that Council approve the overlay plan this evening. Many individuals have worked hard all year on this plan. The homeowners north of Abernathy Road want the overlay plan. The Design Review Board is making progress with the overlay district plan. With the grandfathered buildings, the City's overlay district needs to be extended.

**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 Fries seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnerny voting in favor of the motion. Executive Session began at 7:38 p.m.

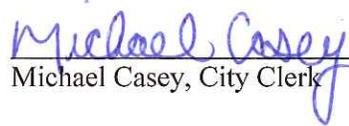
**Motion and Vote:** Councilmember DeJulio moved to adjourn Executive Session. Councilmember Paulson seconded the motion. The motion carried unanimously, with Councilmember Paulson, Councilmember Fries, Councilmember Collins, Councilmember Sterling, Councilmember DeJulio, and Councilmember Meinzen McEnerny voting in favor of the motion. Executive session adjourned at 8:17 p.m.

**ADJOURNMENT**

**Motion and Vote:** Councilmember Fries moved to adjourn the meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously. The meeting adjourned at 8:17 p.m.

Date Approved: September 3, 2013

  
\_\_\_\_\_  
Eva Galambos, Mayor

  
\_\_\_\_\_  
Michael Casey, City Clerk

