

Regular Meeting of the Sandy Springs City Council was held on Tuesday, February 19, 2013, at 6:00 p.m., Mayor Eva Galambos presiding.

INVOCATION

Rabbi Ellen Nemhauser, Congregation Or-Hadash, offered the invocation.

CALL TO ORDER

Mayor Eva Galambos called the meeting to order at 6:01 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

Meeting Page Imani Phillips led the Pledge of Allegiance

APPROVAL OF MEETING AGENDA

Motion and Vote: Councilmember Fries moved to approve the Regular Meeting agenda for February 19, 2013. Councilmember Sterling seconded the motion. The motion carried unanimously.

CONSENT AGENDA

(Agenda Item No. 13-023)

1. Meeting Minutes:
 - a) February 5, 2013 Regular Meeting
 - b) February 5, 2013 Work Session*(Michael Casey, City Clerk)*

(Agenda Item No. 13-024)

2. Roswell Road Corridor Livable Centers Initiative (LCI) Five-Year Update (2013)
(Garrin Coleman, Director of Public Works)
Resolution No. 2013-02-09

Motion and Vote: Councilmember Sterling moved to approve the Consent Agenda for February 19, 2013. Councilmember Fries seconded the motion. The motion carried unanimously.

PRESENTATIONS

There were no presentations.

PUBLIC HEARINGS

Alcoholic Beverage License

(Agenda Item No. 13-025)

1. Approval of Alcoholic Beverage License Application for Longhorn Steakhouse at 6390 Roswell Rd Sandy Springs, Georgia 30328. Applicant is Brad Cowan for Consumption on Premises Wine, Malt Beverage and Distilled Spirits

Revenue Technician Shaun Suggs stated this item is a change of ownership application for consumption on premises of wine, malt beverage, and distilled spirits. The applicant has met all requirements and staff recommends approval.

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

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 13-025, Alcoholic Beverage License Application for Longhorn Steakhouse at 6390 Roswell Rd Sandy Springs, for consumption on premises of wine, malt beverage and distilled spirits. Councilmember Sterling seconded the motion. The motion carried unanimously.

Rezoning

(Agenda Item No. 13-026)

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

Director of Community Development Angela Parker stated this item is a zoning modification to modify two zoning conditions. One zoning condition modification would be for the natural undisturbed buffer along the subdivision street. The second modification is to delete the no access condition along Glenforest Road. This item was initially heard by Council in December 2012 and was deferred. The item was deferred again in January 2013. Since the January deferral, a couple of meetings were held between the applicant and neighborhood. The applicant is requesting a sixty day deferral on this item.

Ralph Edwards, Owner of the medical building, stated he is the owner and manager of the Glenridge medical building. He asked for a deferral of this item for another sixty days.

Mayor Eva Galambos called for public comments in support of or opposition to the application.

Doug Falciglia, 5925 Brookgreen Road, stated he is the President of the Glenridge Hammond Neighborhood Association. The neighborhood agrees with the sixty day deferral request.

Mayor Galambos closed the public hearing.

Motion and Vote: Councilmember DeJulio moved to defer Agenda Item No. 13-026, 201202129 - 5730 Glenridge Drive, *Applicant: 5730 Glenridge Partners LLC*, To modify conditions 4 & 6 of Z79-0074 to

allow driveway access onto Glenforest Road, to the April 16, 2013, City Council meeting. Councilmember Sterling seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

(Agenda Item No. 13-027)

1. Consideration of Approval of the Georgia Department of Transportation Maintenance Reimbursement Contract

Director of Public Works Garrin Coleman stated this item was first before Council in July 2012. This item is an update to the agreement to amend the mileage to straight center line miles and the amount per mile paid to the City by GDOT. The City's mileage decreased, but the per mileage reimbursement increased.

Motion and Vote: Councilmember Sterling moved to approve Agenda Item No. 13-027, the Georgia Department of Transportation Maintenance Reimbursement Contract. Councilmember Paulson seconded the motion. The motion carried unanimously.

Resolution No. 2013-02-10

(Agenda Item No. 13-028)

2. Consideration of Approval of the Appropriation of the Property Located at 6360 Roswell Road (Parcel #5) through the Use of Eminent Domain

Assistant City Attorney Cecil McLendon stated the next two agenda items are related project T-0012, which is the streetscape project between Sandy Springs Circle and Abernathy Road. Part of the project includes twenty-six parcels of right-of-way the City has to acquire to expand the sidewalk area for the streetscape requirements. Staff was able to negotiate an arm's length transaction with twenty-four of the property owners. Two of the property owners did not agree to a transaction. One of the property owners is the BP Gas Station next to the car wash. Staff has had discussions with the property owner and tenant. The City needs to have the property acquired soon, in order to meet the deadlines for the project funding and reimbursement. The tenant and owner are still having conversations between themselves. At this point, based on those conversations, he cannot get a clear title out of both the owner and tenant. Staff will continue these discussions. The acquisition of the property is 1,083.42 feet of fee simple property. The City will own the property and the streetscape will occupy the space. The 906.12 feet of easement area will need to be obtained as well. The value of the property per the appraisal is \$71,850. The City will pay the full amount for the cost of the property. He asked that Council authorize a resolution for City staff to move forward to file a petition to acquire this property.

Mayor Eva Galambos asked if the City will be reimbursed for this project.

Assistant City Attorney McLendon responded yes.

Director of Public Works Garrin Coleman stated the City programmed money a couple of years ago for this project. The City will not be reimbursed until the whole right-of-way acquisition has been authorized and certified by GDOT. At that point, 80% of the funds for acquisition will be reimbursed to the City.

Councilmember Tibby DeJulio asked if this is the parcel across the street from Longhorn Steakhouse.

Assistant City Attorney McLendon stated this parcel is on the same side of the street as Longhorn Steakhouse.

Mayor Galambos asked what is occupying the building on the parcel.

Assistant City Attorney McLendon responded the BP gas station.

Motion and Second: Councilmember Collins moved to approve Agenda Item No. 13-028, a resolution authorizing the appropriation of the property located at 6360 Roswell Road (Parcel #5) through the use of Eminent Domain. Councilmember Sterling seconded the motion.

Councilmember John Paulson asked if staff has researched possible environmental challenges from purchasing a gas station property.

Assistant City Attorney McLendon stated the property being purchased is a narrow strip near the front of the property adjacent to the existing sidewalk. He does not believe this purchase will have much impact, but the situation might be different if the City was acquiring a larger portion of the parcel.

Vote on the Motion: The motion carried unanimously.

Resolution No. 2013-02-11

(Agenda Item No. 13-029)

3. Consideration of Approval of the Appropriate of the Property Located at 6420 Roswell Road (Parcel #13) through the Use of Eminent Domain

Assistant City Attorney Cecil McLendon stated this item is for the T-0012 project and the City has not been able to acquire the property. Staff has had conversations with the owner in order to work towards an arm's length transaction. There are issues pertaining to this property that will require the process to go through court in order to obtain a clear title. The parcel is 367.97 square feet of fee simple right-of-way and 712 square feet of permanent easement. The market value of the property is \$30,200. The purchase of the property is to expand the sidewalk to allow the installation of the streetscape.

Mayor Eva Galambos stated the City will be spending a lot of money that will be reimbursed. The money being spent is to improve the private property owner's outlook on Roswell Road. Some of the property owners are not as cooperative as others, which makes it necessary for the City to use eminent domain.

Councilmember Tibby DeJulio asked why staff was not able to negotiate the purchase of this property.

Assistant City Attorney McLendon stated staff did speak to the property owner and negotiations took place. This property has items in the chain of title that would need the consent of additional third parties for the acquisition, and time is of the essence for this project.

Motion and Vote: Councilmember DeJulio moved to approve Agenda Item No. 13-029, a resolution authorizing the appropriation of the property located at 6420 Roswell Road (Parcel #13) through the use of Eminent Domain. Councilmember Paulson seconded the motion. The motion carried unanimously.

Resolution No. 2013-02-12

(Agenda Item No. 13-030)

4. Consideration of a Resolution in Opposition to Georgia House Bill 176 (HB 176) Cell Tower Siting

Assistant City Attorney Cecil McLendon stated he has two documents related to this item. One document is the text of House Bill 176 and the second is the recent cell tower ordinance that Council adopted. House Bill 176 will place additional restrictions on local governments that are attempting to regulate cell tower installations and/or expansions or modifications. The Federal Telecommunications Act already places certain restrictions on local governments. The primary restriction is the City cannot do anything that would prohibit someone from having access to wireless communications. The House Bill addresses modifications of existing tower sites such as additional antennas on a site or to increase the height of a site structure. The law makes a definition of a substantial change in size and creates certain benchmarks. If the change is under the benchmark, it would not be considered a substantial change in size. There is no regulation the City can place on an applicant that is below the benchmarks. One benchmark is if a change increases the height of the tower by less than 10% or the distance of one antenna. The second benchmark addresses the width of the tower.

Councilmember Gabriel Sterling asked if the 10% applies to every time the applicant submits an application.

Assistant City Attorney McLendon stated he will address that question shortly. If the area around the base of the tower is expanded by less than thirty feet, it is not a substantial change. The City can review the application for compliance with the initial plans, but the City cannot add significant additional regulations based upon the expansion. The House Bill does not address if modifications can occur only once. He does not know if a new baseline would be created once an expansion is made. This would be interpreted by the courts, because it is not specifically stated in the House Bill. The City can regulate the height of a new tower, but the House Bill would allow the applicant to put two to three substantial changes on the tower. He believes the change can only be done once, but that is not what the House Bill states. The City's ordinance was created around the federal legislation. The House Bill also states an analysis of need for the tower site cannot be done. The Bill states, "Shall not include an evaluation of the technical business or service characteristics of the proposed wireless facilities. Shall not require an applicant to submit radio frequency analysis or any other documentation intended to demonstrate the proposed service characteristics of the facility to illustrate need." The City's current tower ordinance addresses the need for the cell tower and the need is balanced against the impact of the tower. The ordinance states the review of a modification application must be completed in 90 days or it is automatically approved. The House Bill states a new tower application must be evaluated and a determination made in 150 days or it is automatically approved. The House Bill states co-location opportunities are not a requirement of the application. The City's ordinances consider co-location as an important part of the application. This would limit the ability of the government to say if one tower is being installed, another needs to be removed. The City does not have a surety requirement. Some cities have a yearly inspection program for cell towers, but Sandy Springs does not. The yearly inspection program would not be allowed if the House Bill is passed. Staff evaluated placing a fee in the ordinance that would be used to hire an expert to evaluate a need analysis. The House Bill would not allow this. Based upon the proposed House Bill, he prepared a resolution. He asked that one modification be made to the resolution, to eliminate the "whereas" section pertaining to fall zones.

Motion and Second: Councilmember Meinzen McEnery moved to approve Agenda Item No. 13-030, a resolution in opposition to Georgia House Bill 176 (HB 176), with the deletion of the paragraph stating "Whereas, HB176 would limit the City's ability to impose fall zones; and". Councilmember Fries seconded the motion.

Councilmember Dianne Fries stated each of the Sandy Springs Councilmembers supports this resolution. It is a shame that Council has to adopt a resolution such as this.

Vote on the Motion: The motion carried unanimously.

Resolution No. 2013-02-08

Mayor Galambos asked how to get the resolution to the legislature in a timely manner.

Assistant City Attorney McLendon stated the resolution will be executed and hand delivered.

Mayor Galambos stated the resolution would have to be delivered tomorrow, since the legislators are meeting tomorrow.

City Manager John McDonough stated the Mayor and City Clerk can sign the resolution this evening for delivery to the legislators tomorrow.

Councilmember Karen Meinzen McEnery stated it would be great to get this resolution to the other North Fulton cities.

Mayor Galambos stated she will take this resolution to the North Fulton Mayors Association meeting on Thursday morning. She is confident they will endorse this resolution as well.

REPORTS

1. Mayor and Council Reports

Councilmember Tibby DeJulio shared some of his experiences from his recent trip to Beijing, China. He was invited by the business channel of the Chinese national station CCTV2 to participate in a forum.

2. Staff Reports

PUBLIC COMMENT

There were no comments from the public.

EXECUTIVE SESSION

There was no Executive Session.

ADJOURNMENT

Motion and Vote: Councilmember Sterling moved to adjourn the meeting. Councilmember DeJulio seconded the motion. The motion carried unanimously. The meeting adjourned at 6:56 p.m.

Date Approved: March 5, 2013



Eva Galambos, Mayor



Michael Casey, City Clerk